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IN THE MATTER OF APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS CROWN LANDS WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

May 4, 1976.

PROCEEDINGS AT INQUIRY

Volume 150

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APPEARANCES:

Mr. Ian G. Scott, Q.C., Mr. Stephen T. Goudge, Mr. Alick Ryder and Mr. Ian Roland	for Mackenzie Valley Pipeline Inquiry;
Mr. Pierre Genest, Q.C., Mr. Jack Marshall, Mr. Darryl Carter and Mr. J.T. Steeves	for Canadian Arctic Gas Pipeline Limited.
Mr. Reginald Gibbs, Q.C., Mr. Alan Hollingworth and Mr. John W. Lutes	for Foothills Pipe Lines Ltd.;
Mr. Russell Anthony, Prof. Alastair Lucas and Mr. Garth Evans	for Canadian Arctic Resources Committee;
Mr. Glen W. Bell and Mr. Gerry Sutton	for Northwest Territories Indian Brotherhood, and Metis Association of the Northwest Territories;
Mr. John Bayly and Miss Leslie Lane	for Inuit Tapirisat of Canada, and The Committee for Original Peoples Entitlement;
Mr. Ron Veale and Mr. Allen Lueck	for The Council for the Yukon Indians;
Mr. Carson Templeton	for Environment Protection Board;
Mr. David H. Searle, Q.C.	for Northwest Territories Chamber of Commerce
Mr. Murray Sigler	for The Association of Municipalities;
Mr. John Ballem, Q.C.	for Producer Companies;
Mrs. Joanne MacQuarrie,	for Mental Health Association of the Northwest Territories.

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Yellowknife, N.W.T.,

May 4, 1976.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. BELL: Yes sir, this is Mr. Theo Hills. Ordinarily we would be continuing with the cross-examination of Mr. Simpson, however since Mr. Hills has a pressing obligation we thought that it would be more convenient to proceed with him first this morning, sir.

THEO L. HILLS, sworn:

DIRECT EXAMINATION BY MR. BELL:

Q Mr. Hills, you're a Professor of Geography at McGill University.

A That's correct.

Q You have an M.A. from the University of New Zealand and in 1950 and '51 you studied comparative development of the Soviet north and Canadian north at McGill University.

A That's correct.

Q And from 1951 to 1953 you engaged in Latin American studies at the University of Texas.

A Yes.

Q In 1951 you spent six months as an exploration geologist with Canadian Johns-Manville.

A Yes.

Q From 1953 to the present you've held various professorial positions in the

Department of Geography at McGill University.

A That's correct.

Q From 1963 to the present you've held a joint appointment with the Centre for Developing Area Studies at McGill University, and from 1970 to 1975 you were director of the centre.

A Yes.

Q In addition, from 1953 to the present you've had contracts with various mining companies to study the impact of mining activities on agriculture in South America.

A Yes.

Q From 1958 to the present you have been director of a research station in Guyana with major emphasis on Amerindian land use, including the impact of highway construction and mining operations.

A Yes.

Q You're a member of the Canadian Association of Geographers.

A That's right.

Q And you were a member of the executive of that organization from 1956 to 1958.

A Yes.

Q You're also a member of the Association of American Geographers, and the Association of Tropical Biology.

A Yes.

Q The Caribbean Agro-Economic Society.

A That's correct.

Q And the Canadian Social Science Research Council.

A Yes.

Q And from 1973 to 1974 you were chairman of the Committee on International Studies of that council.

A Correct.

Q And from 1965 to the present you've been chairman of the Projects Advisory Committee of Oxfam-Canada.

A Correct.

Q You're also a member of the Canadian National Committee for UNESCO.

A Correct.

Q And you're the author of the publications listed on page 2 in the appendix to your summary.

A Correct.

Q Would you please proceed with your evidence, sir?

A In contrast to the previous witness, I am usually only humorous by accident, so I'm not going to try and tell any funny stories, especially at this time of the morning, and I will continue.

Many problems that are confronting the Indian and Inuit peoples of Canada are common to most, if not all of the aboriginal peoples of the world. The state of welfare or of the quality of life -- and you can see below how this has been defined:

nutritional and health level, security, involvement in decision-making, social freedom, control over one's own resources, varies from one aboriginal people to the other, as for example from the decimated tribes of the interior of Brazil to the almost fully assimilated Maoris of New Zealand. With the exception of a few groups at the upper end of the scale, such as the Maoris, the others, the vast majority, make up that threatened underprivileged, insecure and exploited group of people known as the Fourth World.

Common to the people of the Fourth World is a rapidly increasing amount of confrontation with a variety of colonial-exploitative type institutions, both governmental and commercial. Confrontation is almost invariably between the economic system of the dominant society and an aboriginal sector which is usually entirely dominated, and often completely subjugated by the colonial relationship. Predominant among those concerns in the commercial sector are transnational mining companies which obviously have close relations with national governments. Within the transnationals there is a strong tendency towards diversification and thus involvem ent in a variety of activities in addition to mining, such as agriculture, forestry and transportation. There is also a high degree of commonality among the mining companies that are involved in exploitative confrontation in Fourth World regions.

As an additon, this fact was well-documented in the appendix to the brief presented by Clark Smith and Raymond Means, recently.

The areas occupied by the aboriginal groups are perceived by the dominant sector as areas of available resources and the aboriginal inhabitants as either mere obstacles or potential cheap labor. Exclusion and/or negation of the subjugated by mass expulsions or genocidal massacres have been characteristic of many Fourth World areas such as Brazil, Argentina, Tasmania.

(QUALIFICATIONS & EVIDENCE OF T.L. HILLS MARKED EXHIBIT 607)

T. L. Hills
In Chief

Historical perspective. The above condition of the Fourth World countries has a common origin in the advance of the European frontier of mercantile colonialism and imperialism from the 15th century to the present day. A simple descriptive explanatory model presents the major characteristics of this global advance of dominance and subjugation.

The expanding European society and economy made a number of basic assumptions; the cultural superiority of the colonizing group and the primitive condition of aboriginal peoples; freedom of access to land and all other resources and thus the development of the concepts of free land and free labor. Out of these basic assumptions developed the belief in the prior need or right of the metropolis in satisfying their demands in the form of minerals, furs, spices, plantation crops, timber, etc. This belief in the rights of the superior, the more powerful, the largest, has survived to the present day.

The sense of superiority was clearly conveyed in a ruling of the United States Supreme Court as presented by Chief Justice Marshall in 1823. In reference to the frontier, in this instance, the North American continent, the opion read and I quote:

> "Its vast extent offered an ample field to the ambition and enterprise of all and the character and religion of its inhabitants offered an apology for considering them (the Indians) as a people over whom the superior genius of Europe might claim an ascendency... While the different nations of Europe

respected the rights of the natives as occupants, they asserted the ultimate dominion to be in themselves and claimed and exercised, as a consequence of this ultimate dominion a power to grant the soil while yet in possession of the natives.... Thus, all the nations of Europe who have acquired territory on this continent have asserted in themselves and have recognized in others the exclusive right of the discoverer to appropriate the lands occupied by the Indians."

The American historian W. P. Webb has stated about the relations between the metropolis and the frontier, that the latter was seen as an inherently vast body of wealth without proprietors and when this great area was made available to the crowded and impoverished people of the metropolis, they swarmed like bees to suck up the sector of wealth, much of which they brought home to the mother hive.

In regard to aboriginal occupants of the frontier lands, he stated that in the new theology of the forest, the frontier, the Sixth Commandment did not apply to Indians. In many respects the survival of this attitude of superiority helps to explain the degree of tolerance by Canadians of the behavior of governments, mining companies and other concerns in those territories whether in Canada, Brazil or elsewhere where aboriginal rights should very clearly predominate.

Now to a model of metropolis aboriginal contact, sequentially presented. Firstly, the basic assumptions. The state and level of culture,

technology, subsistence, general welfare and the degree of peace varied greatly from one aboriginal group to another and from one continent or region to another. Societies ranged from the supposedly most sophisticated, the Incas and Aztecs to the most lowly or primitive, the Australian Tasmanians, and aboriginals. Some people were thriving and increasing demographically, while others were in decline demographically, technologically and politically, such as the Maya. However, at the advent of the frontier, the aboriginal peoples can be seen as having their own way of life, as occupying their own territory and as having developed their own peculiar relationship between numbers of people and resources. Their adjustment to the environments was usually extremely complex and well balanced.

The arrival of the European frontier. The first stage of contact was essentially one of exploration, conquest and the beginnings of occupation of aboriginal land. There were of course variations on this theme. Conquest by force of arms, of the Spanish and Portuguese variety was often absent; the military appearing at a later stage only. Early contact was often left to the traders, missionaries or colonists. Where the military were present, they were there either to prove effective occupance of territory or to protect one or all of the colonizing institutions. At this stage in some regions, there were the beginnings of expulsion, subjugation or extermination.

Third stage, beginnings of economic exploitation. This stage sees the beginning of

economic exploitation through trading for furs, timber, etc., mining and agricultural colonization supported by a military, political and missionary presence. Anthropologically, acculturation is now underway with the superior European society beginning to influence or impact the inferior aboriginal society. However, influences were not always one way. When the Portuguese arrived in South America, the agricultural technology they brought with them had not yet felt the impact of the agricultural revolution in Europe and the Portuguese, as with their European counterparts in other regions of the frontier would have failed without the adoption of an indigenous technology, forest felling and burning or shifting cultivation.

Unfortunately, too little recognition has been given to what the metropolis owed to the aboriginals of the frontier.

This stage was also characterized by forced migration or expulsion, which resulted in a wave effect and the subsequent adjustment of territorial boundaries across whole continents. Migration may have been the result of slave hunting activities and of the concomitant occupation of the best agricultural land. Treaties, the full meaning and intent of which the aboriginal peoples rarely understood, may or may not have been resorted to by the colonial power. In 1837 a British Parliamentary Committee went so far as to state that the people of Australia were so entirely destitute of the rudest forms of civil polity that their claims, whether as sovereigns or proprietors of the soil, have been entirely disregarded.

Where the colonial powers called upon individuals to sign treaties involving abrogation of rights to land, collective tribal ownership was often overlooked.

Demographic onslaught. Demographic changes in the aboriginal population now become significant. Numbers declined rapidly due either to slaughter as a result of a policy of outright extermination or warfare, or to the ravages of a variety of European-introduced diseases. Slaughter and disease were not always due to direct contact between Europeans and aboriginals. Due to slave huntingby one or more tribes on behalf of the colonial power, adjustments in tribal territory boundaries occurred and were often accompanied by warfare, the spread of disease and further decline in numbers in the process of adjusting

to a new and often inferior resource base.

Another demographic change of very great significance was the beginning of miscegenation or intermarriage between the Europeans and aboriginals, which in turn gave rise to an internal racism. Racism existed from the outset, given the attitude of superiority of the conquering society, but it was internalized as white mixed with black or red, and mulatto, mestizo, and metis populations developed. This differentiation became particularly signficant within an internal colonial structure.

Protection or incorporation-. With the passage of time policies of either protection or incorporation -- I mean by that integration or assimilation -- emerged, though the two policies were not necessarily incompatible. Where the aboriginal peoples occupied the interior or geographically peripheral areas, protection generally meant cultural and economic isolation. Where protection took the form of the establishment of reservations within the areas of European settlement, then it was expected that some degree of assimilation would occur. Regardless of the location of the reservations, the treaties or legislation by which they were established usually spelled out the nature of protectionand rights. The experience of the aboriginal peoples varies greatly in the nature and degree of protection that was provided. The literature on this subject is legend.

I would point out thatin the next sentence, having discovered a typographical error,

I have made some adjustment but I think the meaning is still there. One of the most significant features of the voluminous legislation covering rights is the meaning and intent of the word "rights", especially in reference to natural resources other than space and soil, such as mineral rights. For example, the Brazilian Constitution states:

> "The lands inhabited by forest dwellers are inalienable as determined by federal law, permanent possession belongong to them; the exclusive use of the natural resources and of all the advantages therein contained being recognized as their rights."

So much for the Brazilian Constitution, given the experience of the Amerindians in the Amazon during the last ten years. In Guyana, although reservations were established, Amerindians never became owners of their land and there was never any question of rights to natural resources. All rights remained with the Crown. What developed in some countries was a policy of making some of the profits from resource exploitation available to the government department responsible for aboriginal affairs, as in Australia. The experience of these policies has been extremely varied and by and large, rarely profitable to the aboriginal peoples.

The depth of decline. The next period in the history of aboriginal peoples varied chronologically and in character, from one of abandonment and the depths of decline demographically and

socially, or the extermination of aboriginal remnants such as the Auraucanians of Argentina and the Yaqui of Mexico, to the adoption of policies influenced by the classical liberation philosophies of 19th century Europe, and the United States, which in many regions unfortunately led to the individualization of the ownership of land and the subsequent sale of land to settlers, at the expense of communal ownership. The territorial basis of many aboriginal peoples was thus lost.

There is no certainty about the size of the aboriginal populations prior to the arrival of the Europeans. There is greater certainty about the numbers at the depth of decline. In Brazil estimates of the pre-European population range from one to five million, with the lower figure probably being more realistic. By 1940 the estimate was 500,000; by 1957, 100,000; and at the present, 50,000. Of 230 tribes in 1900, it appears that about 90 have been obliterated.

The decline in Guyana was from approximately 100,000 to about 13,000 at the turn of the century. Fortunately, the population is now on the increase with the present-day estimate at about 25,000. In New Zealand, the Maori population reached its lowest figure of 42,000 in 1896, a decline from an estimated original 200,000. The present population is over 300,000. The pre-discovery number of Australian aboriginals was about 500,000. The low was estimated at about 60,000 in the 1920s, while the

present-day population is approximately 200,000.

Contemporary confrontation. It would be most satisfying if one could term this final stage to the present a period of enlightenment on the part of both parties, the aboriginals and those of European origin. At most, for some regions and countries it has been a time of reawakening. On the one hand, an aboriginal educated elite came to appreciate the plight of their people and began to do something about it. On the other hand, a small vanguard of the European sector (whites, Pakehas, -- "Pakehas"being the Polonesian word for "whites") have been prepared to help the aboriginal leaders fight for their rights and for the revival of their culture. From the late 1920s through the 1960s in turn, the declarations of the League of Nations and the United Nations, the efforts of the International Labour Office, the World Council of Churches, and many national organizations all helped the cause. However, most aboriginal peoples have been unable to cope with the combined power and authority of governments and transnational mining companies, as to be illustrated in the following case studies.

As countries have been confronted by the rapid depletion of national natural resources, and the ever-increasing costs of imports, all the very best intentions regarding the rights and welfare of aboriginal peoples have fallen by the wayside.

Now, to the first case study, that of the rights problems of the Australian Aborigines. The rights of Aborigines to land in Australia has been confused for a very long time. Largely due to the greatly increased interest of primarily foreign owned mining, agricultural and pastoral companies in Northern Territories, western Australia and Queensland, the scale of confrontation with Aboriginal tribes has been such that the Australian Government established a Commission on land rights under Mr. Justice Woodward.

In the decade prior to the establishment of the Commission, there had been numerous examples of mining companies initiating projects without any regard for aboriginal rights or needs. In most of these cases neither the federal nor the state governments involved provided any instructions for the mining companies at all.

With the onset of a major bauxite development at Weipa, Queensland, where Aborigines had been settled for a long time on what they considered as their traditional lands, neither government nor mining company (Comalco) conceded that the Aborigines had title to the area. Consequently, there was no negotiation and Aborigines were both verbally and forcibly persuaded to move from their settlements.

A Presbyterian church mission accepted $300,000 compensation on behalf of the Aborigines and this was used to build houses which were then rented to the Aborigines. A token issue of 10,000 shares in Comalco were made to the Aboriginal people while

at the same time, a similar number of shares were presented to five state ministers who were listed as customers of the company. At Yirrkala, in the long established Arnhem Land Aboriginal Reserve, Northern Territory, direct negotiations with the Aborigines were again avoided. The government and company (Nabalco) turned to a local mission and federal welfare personnel as representatives of the Aborigines. This time, however, thanks to the energies of both the local population and the mission and both national and international publicity, the company and the Federal Government were required to make concessions as a result of a court case which they had initiated against the Yirrkala people.

Even as the Woodward Commission proceeds with its inquiry, mining companies in league with the state government have again attempted to completely ignore aboriginal rights. The Queensland Parliament, during early December 1975, rushed through legislation to grant a mining consortium, Billiton Aluminum which is Shell, Aluminum Pechinery Holdings, which is French, and Tipperary Corporation which is U.S. a mining lease of 1905 square kilometers of which 1800 square kilometers will lie on an aboriginal reserve at Aurukun, Cape York Peninsula, Queensland.

The development plans call for a $1,000 million bauxite refinery, alumina plant and port. As the Australian press headlined the event:

"Blacks denied say in $1,000 million mine project".

It is significant that this legislation was rushed through

during the Fraser "caretaker" Federal administration. Is it only a coincidence that these development plans should be announced and the legislation arranged during a "caretaker" administration following the forced resignation of a prime minister who had earlier in the year made Australia a signatory to an agreement of the International Bauxite Producers Association? Australia with its massive reserves of bauxite perhaps the largest in the world, is the only significant non-Third World signatory and thus a thorn in the side of the world's aluminum producing transnationals.

Aboriginal groups believed that they would make headway in establishing their rights under a Federal Labor government, in that the policy of the Federal Labor Party was that aboriginal lands should carry with them full rights to minerals. However, in July 1973, the Australian Labor Party caucus shifted ground and decided that the Aborigines should merely share the benefits of the development of natural resources, including minerals. Later the same year, the Federal Cabinet raised the freeze on mining activities in the Northern Territories and renewed licenses of Queeenslands Mines, in part Noranada, Pancontinental, and Noranada. It was obvious that the Federal Governments had succumbed to intense lobbying of the Australian Mining Industry Council, an organization representing the interests of 154 companies.

Finally, two interesting points arise out of the Aurukun case. One is that the Aborigines have been offered a profit sharing deal,

whereby 3 percent of the net profit made by the operation after the third year will go into an Aborigines Welfare Fund, a state organization which means that the monies could be spent anywhere in the state of Queensland. In addition, it is appreciated that accepting a percentage of net profit is a dangerous exercise as there is no certainty that the transnational will declare a profit in Australia. A royalty sharing arrangement would have been preferable by far.

The second point is that the aboriginal people do not necessarily want mining activities at all and if they are conducted on their lands, then they must be on their terms and these terms would surely opt for a royalty rather than a profit sharing arrangement.

There continues to be complete failure on the part of most white Australians to realize that a title to land other than that applicable to white society is required for aboriginal society. In many regions of Australia, the Aborigines retain strong allegiance to the territory in which they live. It is an asssociation that has no equivalent within European land title but it is of a form that requires recognition of ownership in other than lease or free hold. An expression of aboriginal views can be seen in Appendix C.

To the second case study, understanding the land needs of Guyanese Amerindians. The Amerindians of Guyana occupy Crown land and thus have no clearly established rights to land. An Amerindian

Lands Commission which operated in Guyana in the late 1960's, attempted to establish the boundaries of reservations and the actual land needs of Amerindians. The true objectives of the Commission were never very clear but what was clear was that the Commission functioned in the 19th century liberal style by trying to individualize title to land. If there were ever any justification for such an approach on rich prairie soils in the United States, there could never be, in the forseeable future any possible justification on the poor, tropical rainforest soils of the interior of Guyana.

Agriculture on these soils depends for its nutrient supply upon those minerals that are ordinarily locked up in the biological system we know as a tree or forest. It is not until trees are felled and burned that nutrients are made available to the crops of the Amerindians. An Amerindian family annually requires about two acres of crops, especially the root crop cassava.

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Once the crop is harvested the forest regenerates, but requires on the average about 20 years of regrowth in order to provide the quantity of nutrients required for a good yield of cassava. A village of 100 families will obviously need access to many square miles of land and thus tribal rights are essential. It is a forlorn hope that Amerindians could operate on the basis of an individual five or ten-acre holding. This would only be possible with massive inputs of artificial fertilizer, and such inputs in the interior of Guyana are out of the question.

The words of one village chief, in reaction to the Commission Chairman's offer of a title deed to each Amerindian family will long be remembered by the author.

> "Who are they to offer us our land, and how can a piece of paper indicate how we relate to our land?"

The policy of the Government of Guyana remains, and I suggest purposely, vague, what with highway construction and mineral exploration being intensified in the interior of the country. Yes?

THE COMMISSIONER: Excuse me, Professor Hills. In Guyana the Amerindians are a small minority of the country, are they, the dominant populations being black and East Indian. Is that --

A East Indian, black, Amerindian, yes.

Case study III. Transnational exploitation of the Amazon and the plight of the

Amerindians. It is most unlikely that any aboriginal peoples in modern times have experienced as harsh a treatment and fate as have the Amerindians of the Amazon and the Matto Grosso of Brazil. The demographic dimensions of this fate have already been described briefly in this text and there is such voluminous literature on the subject that there is no intention of covering the same ground in this case study. Rather, the main purpose is to try to explain both how such a human tragedy was possible and what are the lessons for aboriginal and other people elsewhere.

The interior of Brazil, extending from Brasilia to the farthest northern and western limits of Brazilian national territory, is now being occupied and developed by means of a great highway network, both the mineral exploration of the region and the active development of many major mines, the rapid clearance of the tropical rain forest primarily for the purpose of cattle raising, and by the buildup of a large military force, especially an Air Force, which is considered essential for the protection of the borders with the neighboring states of Bolivia, Peru, Colombia, Venezuela, Guyana, Surinam, and French Guiana.

The whole process has been facilitated by a willingness on the part of the Brazilian military regime both to disregard the spirit of the Brazilian Constitution as it relates to Brazilian Indians, and to co-operate most magnanimously with the great variety of national and transnational

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corporations. A prime example of the latter was the promulgation of a new mining code in 1967 which opened up Brazil to foreign mining companies, which were in turn aided by quantities of free data provided to Brazil by the Earth Resources Satellite.

Brazilian economic development has been characterized by and probably generated by a series of economic booms. First came the sugar production boom of the north-east, which exploited fertile coastal soils, slave labor, and a rapidly expanding European market. A century later came the gold and cattle boom of the Brazilian Highlands, which also contributed towards the goal of effective occupance of the interior. Next came the great coffee and rubber booms, both of which helped to pattern the modern Brazilian economy. To this stage economic development had been exploitative of people, soil fertility and minerals, exploitative to the degree that it has been described as of the robber-economy variety.

As the coffee frontier proceeded to the south-west into the State of Parana, and the frontier of settlement elsewhere expanded into the western interior to the point that the establishment of Brasilia (this is the federal capital) was justified, Brazil intensified economic development in the heartland of Rio de Janiero and Sao Paulo. Industrialization and intensive agriculture resulted, continuing however to feed from exploitative agricultural and mining sectors.

By the 1950s it was clear that

if the rate of economic development was to continue, then the vast interior must be opened up on a grand scale. In other words, there had to be another boom. Reliance on national internal capital savings would not have permitted a sufficient rate of development, and thus not a true boom. Throughout the history of Brazil there has always been plenty of land, but usually not enough people; thus slavery and immigration. The aboriginal population has always been peripheral or marginal to Brazilian economic development. It has been the needs of the Brazilian economy, not the pressure of population, that has dictated the occupation and development of the interior. Today, the very great needs of the Brazilian economy, dominated as they are by big business and the military, can only be satisfied by the type and scale of development orgy which has been embarked upon. The sell-out to the transnationals, in terms of virtual give-away mining rights and the granting of vast blocks of land on the Amazon, clearly reflect the urgency of development and the complete disregard for the existence of the remaining Amerindian population and the ecological knowledge of the rain forest possessed by these people.

One of the most important lessons to be learned from this recent Brazilian experience in the interior is that mankind cannot afford to sacrifice the ecological knowledge of aboriginal peoples. Amerindians are the only society with the necessary knowledge, expertise and tradition to prosper in the Amazon rain forest. Amerindians not only profoundly

appreciate what exists, but also understand ecological inter-relations of the various components of the Amazonian ecosystem better than do modern ecologists. Amerindians perceive specific relationships which biologists are only now discovering to be accurate. And since the Amazon rain forest is the most complex, richest and least understood ecosystem in the world, the Amerindians knowledge of it is of inestimable value. The rapid demise of some of the groups relocated by FUNAI, the present Brazilian Government Indian authority, is largely due to ecological factors. A tribe knows its traditional haunts intimately, and when deprived of them is without the ecological understanding which is absolutely vital for livelihood.

Mr. Commissioner, I have endeavoured to provide an overview of the circumstances of Fourth World people historically and in the present. I have no expert knowledge with respect to the situation of the Dene and the Inuit here in the north, but they are clearly people of the Fourth World with special attachment to the land. They have already faced substantial inroads from transnational mining companies and now they face the inroads of the transnational oil and gas companies. The situation of the native peoples of the north deserves to be placed in its global context. I hope my evidence will assist in that purpose.

THE COMMISSIONER:
Thank you, Mr. Hills.

MR. BELL: Professor Hills is now available for cross-examination.

MR. GOUDGE: Mr. Bayly was here

earlier this morning, but I don't see him now, sir. I would think in his absence, Mr. Sigler is next.

MR. SIGLER: No questions.

MR. GOUDGE: Mr. Hollingworth?

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q Mr. Hills, you seem to see a conflict between aboriginal peoples on the one hand and government, which you talk of being of European origin and mining companies particularly on the other side; is that correct?

A Yes.

Q But surely the situation in Guyana is quite different in that respect, isn't it?

A In the sense that today and for the last few years the Bauxite Mining Company has been nationalized, is that what you mean?

Q Well, that and the fact that the government is not dominated by Europeans.

A Well, that is true, but this of course is very recent, in that it is only in recent years that the government has been independent and that the mining companies -- mining operations have been nationalized. But it is true that that is in part an exception, that today that government is dominated by the blacks and the Indians who were brought into the country by the British colonial system.

Q Certainly there isn't much collusion between the mining industry and that particular government. In fact, there was a bitter battle between particularly Alcan and that government, wasn't there?

A That's right.

THE COMMISSIONER: On that point of Mr. Hill's, is there an instance you are aware of where a dominant society, non-European -- Guyana as an example, but are there any other examples of a dominant society that is non-European by race, at any rate, acknowledging the rights of aboriginal peoples and granting them a measure of self-determination? Is there any such example in the world anywhere?

A To answer that correctly I think one would need to look at and in a sense re-define the word "aboriginal", because if you define it simply as indigenous, well then you may have in a number countries a number of aboriginal peoples of different ethnic origin. I think -- well, I cannot think of any example of a non-white population that is really treated an aboriginal group any differently from the type of experience that I have described.

Q What about Japan? There is an aboriginal race I understand, called the Ainu.

A Yes.

Q Has their treatment by the Japanese differed in any respect from the treatment that European peoples, white peoples, have accorded indigenous races?

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A That, I couldn't say.

Q Could I just ask you another matter while taking the liberty of interrupting Mr. Hollingworth? You, in your early career studied the Soviet Union.

A Yes.

Q What about the treatment of aboriginal peoples in Siberia? There is a race of people I understand in Siberia related very closely to the Eskimos of North America. What has the policy been, one of assimilation, acculturation or granting a measure of self-determination?

A I have been trying very hard over the last few weeks to piece together some information about the Samoyed people in particular. It so happened that in that year over two decades ago amongst the comparisons I made was that of the Samoyed's with the Greenland Eskimos and the Canadian Eskimos, and I subsequently wrote a paper for a graduate seminar in the course of which I learned something about the experience of the Samoyed's. Of course the policy of the Soviet Union at the time was to acculturate all these people and in the case of the Samoyed they were confronted by a problem something very different from what they had experienced elsewhere because the Samoyed's were a mobile people. They were hunting reindeer.

The procedure they adopted was to develop a series of, or a number of red camps, as they called them and they would send the -- they would send their cultural agents out in vehicles so that they could

move with the Samoyed's as they moved with the hunt. They subsequently discovered that this was a rather arduous task and they were not achieving any great success and so they then began to compel a degree of settlement, particularly for the children and for certain members of the family; for the children so that they could be educated. Then they responded by developing what was probably one of the forerunners or the first of the snowcats or snowmobiles, so that the Samoyed could then hunt with these vehicles which enabled them to settle the families, put the children in school and then the hunters could continue to be mobile.

Since then, there has been very little information from the Soviet Union about the fate of the Samoyed but Terrence Armstrong of the Scott Polar Institute in the United Kingdom who has written about the Soviet north suggests that of those Samoyed's who resisted, there was, well what one describes as simply disappearance and it seems today that the number of Samoyed is much reduced from say the 1920 or 1925 figure, but I can speak with no greater authority on that.

THE COMMISSIONER: Oh, sorry. Go ahead.

MR. HOLLINGWORTH: No, not at all sir. Just a couple of points that I did want to clarify Professor Hills.

You say in your text that the rights of Aborigines to land in Australia is confused. How is it confused? Could you elaborate a bit on that?

A Well it's confused because you have a, as we do in Canada, you have a Federal Government and you have the provinces and a Northern Territories, equivalent to the Northwest Territories. Each of these has an aboriginal -- is supposed to have an aboriginal lands policy but in very little of the legislation are the actual rights to land clearly spelled out and that was the reason for the Woodward Commission that was established.

I can only suggest to you that the authorities that have looked into aboriginal affairs in Australia at the present time have acknowleged that the situation in Australia has been very confused and Judge Woodward, in his introductory statement to the Commission, indicated that the situation was so confused that his Commission task was going to be a very difficult one.

I can't spell out to you the exact nature of the legislation or of the policy other than that there have been these statements by any number of Australians in authority that the whole situation in regard to aboriginal rights has been very, very confused.

Q Well, can you go this far, in Canada, the people of Indian and by definition of a Court case "Eskimo origin" are Federal charges and they're under Federal jurisdiction. What's the case in Australia?

A The responsibility is divided in the case that I described for the Queensland. Queensland, obviously, had jurisdiction. Their own Department of Aboriginal Welfare had jurisdiction over the

Aborigines in that particular case and one of the major problems and one of the major causes of confusion is, exactly what are the federal rights, as opposed to the provincial or state rights. I think that it should be appreciated here that the major difference, I think, between -- the major contrast between Australia and Canada is that Australians had just not bothered. They had virtually ignored the Aborigines over the years and until there was this type of confrontation, until there were these recent demands for mining rights on these aboriginal lands, the Federal Government had not clearly, had established -- had not established a clear policy and had not clarified the situation of rights in relation to the state government's.

Q So then I take it that's the basis for your suggestion that the Queensland Government might have snuck through legislation during a period of relative turmoil at the federal level when nobody really knew what --

A That's right because prior to that, in each case where the state governments had become involved, the Federal Government would have been watching very carefully but in this case, the Fraser Government was obviously not interested. I mean, the Fraser government is clearly in support of the operations of the mining companies and was prepared to turn the other way.

THE COMMISSIONER: There was no mandate from the Governor-General to do anything.

A That's right.

MR. HOLLINGWORTH: Q But I seem to find a suggestion that Mr. Whitlam might have been turfed out by the Governor-General because of signing the International Bauxite Producers Association agreement. Are you suggesting that?

A. No, no, I'm simply suggesting that there was undoubtedly the development of tremendous opposition on the part of the mining industry and many other interests in Australia which were clearly brought to bear upon the government, because they felt that these actions, certainly in signing the Bauxite Producers agreement, was against the best interests of the economic development of Australia, even though it was certainly in the best interests of Third World producers of bauxite.

Q Yes, you're quite critical of the mining industry both in Australia and more particularly in Brazil, and yet I see that you consult to it every year. How do you explain that?

A It's not -- I have become involved from time to time, particularly in Guyana, because I was concerned about the welfare of the Amerindian peoples, and I think that one can very well accept these tasks in order to do something on behalf of aboriginal peoples, and the work that I've done has very often been on that clear understanding that my primary concern was with the welfare of

aboriginal peoples. Gamorara Bauxite in Guyana, for example, is a subsidiary of Alcan, called upon me on several occasions because I was working with Amerindians and they wanted advice.

Q So there is an element of concern then from the mining industry that you're criticizing today about the aboriginal peoples.

A There certainly has been some concern, but unfortunately ithæs not led generally wherever mining companies are operating in the Third World, to a policy which one could consider as considerate of the full rights of the aboriginal people.

Q No, but you seem to indicate that the mining companies might actually be in collusion with the governing bodies of the various countries to put down the aboriginal people.

A Well, yes.

Q Surely, sir, there's a conflict between that and them calling upon you for advice as to how to deal with a particular situation, dealing with aboriginal people.

A Well, any major concern whether it's private or governmental can always look for a token consultant.

Q Well, are you content to be taken on as a token consultant, sir?

A Well, from time to time I've done my very best in the hope that I could really bring some pressure to bear, that I could educate the government or mining company to the true position, such as

in Guyana, as I stated, the type of relationship they have to the land where title deed to five or ten acres would be completely unsatisfactory, and where they needed a large area over which to migrate in the course of their agriculture, and rather surprisingly, even when this Amerindian Lands Commission was established and operated for two or three years, there was still a failure on the part of that Commission to fully appreciate the nature of this relationship, and I have taken on these assignments in order to present the facts based upon current research in that country, whichever country it was. So I'm usually optimistic that at some stage the word will get through and the people will begin to fully understand what is the nature of the relationship.

Q Well, just so I'm clear, do I understand you to be saying that essentially the transnational mining companies are in collusion with various governments around the world to minimize the rights of aboriginal people, but that they will occasionally take on a consultant such as yourself as a token gesture that they're doing something about it?

A I don't see anything incompatible.

Q But is that your evidence, sir?

A I know in the case of Brazil there's no doubt whatsoever that the Brazilian Government has been developing the highway plans and other settlement plans in the interior country very much in order to help the transnational mining companies establish themselves in the interior of the country, and they have taken on numerous consultants in the

ecological field and I was invited two or three years ago to do some of that work, which I did not undertake at the time because it was not convenient. But I think I would have undertaken the work simply in the hope that somehow the findings might persuade one or other of the parties that the aboriginal peoples had needs that they did not appreciate.

MR. HOLLINGWORTH: I have no further questions.

MR. BELL: Professor Hills is not the bad guy.

MR. HOLLINGWORTH: Those are my questions, sir.

THE COMMISSIONER: Well, the notion that governments ought to provide infrastructure to enable enterprise to be established in the hinterland is part of the tradition of all western countries, there's no argument about that.

A No, there's no criticism of that. It is simply the way in which they've gone about it in countries such as Brazil, as was clearly indicated in the previous week. There was an excellent tradition in Brazil of protecting Indian rights, in fact there were officials of Canadian earlier Indian Affairs Departments that were sent to Brazil to observe because of the very high standards and the reputation; but unfortunately when the time came and the highway system had to be imposed, and the highway system as it's been designed is a very geometrical one in the sense that roads have got to proceed from point A to B, and in

spite of what the Constitution says and the protection it supposedly provides, the present government has not been prepared to modify those plans whatsoever to bypass, to skirt around some of the long-standing Indian Reservations in Brazil, and this is what I'm critical of. It's not that the infrastructure was provided, that's very reasonable; but they have not been prepared to modify those plans whatsoever, nor provide the protection needed -- the security for the Amerindians.

Q In Brazil, the largest population are white people, I take it, but isn't there a substantial black minority?

A Yes.

Q And what percentage of the population approximately would the black minority be?

A The Brazilian census calls for declaration as to whether you're black, white, red, yellow, and there's no in-betweens, according to the census, but in fact there is a large Mulatto population, the population of Brazil is an extremely mixed one. I would estimate that the black population is about a quarter of the population, but anything from a half to a little more would be described as Mulatto. Then the remainder is primarily of European origin, Portugese, most of the European nations that are represented along with a mixing with the original Indian population.

Q The black people in those South American countries were brought from Africa so they, I take it that they live essentially an urban

existence, do they? There's nothing in their situation in say Brazil to resemble the situation of the indigenous people? Let me put it this way.

A No, no.

Q The black people of Africa, their situation would resemble that of the Amerindians in Brazil more than it would the black people of Brazil.

A Yes, yes.

MR. GOUDGE: Mr. Steeves is next, sir.

CROSS-EXAMINATION BY MR. STEEVES:

Q Professor Hill, in order to understand and accept the point you're making in your evidence, does one have to assume that the Government of Brazil is the equivalent of the Government of Canada? I'm talking here about the relationship between government and aboriginal people. I take it you want us to draw the analogy between the Government of Canada and the people of the north, and the Government of Brazil and Amerindians of the Amazon. Is that correct?

A Yes. To a degree.

Q What's the present -- well, let's talk about degree -- what's the present -- how would you describe the present government of Brazil? It's a military dictatorship, isn't it?

A Yes.

Q I'm sorry, I don't understand what point you're making in your evidence.

A First of all, I have tried

to look at these governments over time and you've had a federal system in Brazil, roughly equivalent to the federal system in Canada, so that's the first point, that there is that similarity, although there are slight differences.

At the present time that federal system is still supposedly operating, but it's very clearly a military dominated government; and I'm not suggesting for one moment in that respect Canada and Brazil are similar.

Q Isn't the present government of Brazil completely ignoring the Brazilian Constitution where it cares to?

A Where it cares to.

Q Not only in areas of aboriginal peoples' rights, but in all other areas as well. Isn't that so?

A Very much so, yes.

Q Well, what lesson are we to draw from the Brazilian experience then?

A Well, I think the lessons from the Brazilian scene that I was really trying to stress is that -- is to indicate the types of relationships that can develop between a government and particularly a Federal Government of the type in Brazil and certain transnational interests, and how far a government, whether it's completely democratic -- a democratic government or supposedly completely democratic, or of a military nature, is prepared to go on behalf of the interests of transnational corporations.

Q Are suggesting then that there's some sort of alliance or collusion between transnational corporations and the Government of Canada?

A I think there is to a degree, yes.

Q Well, tell me about that.

A Well, I think that in your -- if we could relate Canada and Brazil for a moment, I think that in the previous brief that concentrated on the Amazon, reference was made to the rather interesting relationship between the Canadian Government and Brascan, and Brascan is one of the transnational companies in Brazil that I've been referring to.

Canadian Government has provided a considerable amount of assistance to Brascan and some of these other transnational companies in Brazil.

Q Well, is there collusion between the transnationals and the Government of Canada in respect to the exploitation of resources in northern Canada?

THE COMMISSIONER: Excuse me. Can I just ask what the word "collusion" implies; a measure of corporation, or does it imply something with sinister overtones which I don't quite follow myself? It seems to me that there can be no question but that the Government of Canada and the private sect used as it's possible in this sort of discussion, a non-consortive expression, have had a great deal of discussion about the future of northern Canada. ONe

would expect that I suppose.

A Yes.

Q How do you get from there to collusion? Well, I guess I shouldn't have interrupted but --

MR. STEEVES: Sir, I'm using "collusion" in the ordinary, natural meaning of the word and --

A It was not my word.

Q Oh, I'm sorry, I thought it was.

A No I --

Q But you adopted the word?

A No, I did not use the word "collusion".

Q I see.

A I referred to a relationship between --

Q Is that Mr. Hollingworth leading again?

A It may have been, yes.

THE COMMISSIONER: Collusion, connivance and condemnation, that's the trilogy that appears in my mind that the --

MR. BELL: As applies to Foothills under which the term is used in law.

MR. STEEVES: Well I want you to tell me please. Describe the relationship between the transnationals and the Brazilian Government and what is present in the Brazilian Government? Is it one such

as Mr. Justice Berger just suggested exists between the Canadian Government and the transnationals or is it something different?

A I think it's a matter of -- I think it's probably a matter of degree. It may well be that it is different but at the present time I would go so far as to suggest that it's a matter of degree in the sense of how much the Brazilian Government has been prepared to do to pave the way. How much they've been prepared to provide in a sense, free of charge.

I made reference to the earth resources satellite data which the Brazilian Government has obtained from that earth resources satellite that is operated by the United States, but the Brazilian Government has a treaty with the U.S. Government to obtain that data which it obtains at considerable cost, at the cost to the taxpayer.

That is provided free of charge to the transnational companies, particularly the mining companies and the highway construction that is being undertaken which is tremendous undertaking for any country. Well, you know, it's one thing to provide some infrastructure but at the present time, the Brazilian Government would appear to be laying a tremendous amount out at the expense of the Brazilian taxpayers.

One of my major concerns is that it's at a time when tremendous disparities exist in the standard of life, the quality of life of Brazilians. When you have a least a quarter of the people who are

living at a very low subsistence level and yet rather than spending the money on raising the quality of life of those people, the country is laying out what amounts to billions in order to proved the infrastructures needed by the mining companies and from the data that I have available, it's very clear that the mining companies are not going to pay very much back into the economy. I don't have all the details of the contract yet or the understanding that Alcan has with the Government of Brazil, but I do know that it's extremely favorable and it has been described in the international press and elsewhere as virtually a steal, in that the royalties to be paid to the Brazilian Government are just minimal.

If one had to use the word "collusion" I would say that's an example of it, really providing benefits for a company, a group of organizations such as transnationals at a time when a very high proportion of the population could benefit much more from direct payments into their -- to improve their quality of life.

Q You say it's been described as a "steal". Is there in your understanding, corruption involved?

A No. No, not corruption. It's simply that the royalty level is supposedly so low. In fact, referring to Guyana again, when the Government of Guyana indicated that they were interested in the possibility of nationalization of the bauxite -- of Alcan in Guyana, the bauxite mining, Alcan, threatened at that time that they would move their major

operations to Brazil because they had such favorable terms offered to them by the Brazilian Government, and they stated their terms at time which were clearly terms which I think were unjustified considering the welfare of the Brazilian people.

Q You've made the point that if the objective of a government is to raise the quality of life of some of the people in that country, it takes money.

A Yes.

Q Basically, so far as Brazil is concerned and I take it so far as Canada is concerned, you'd agree that money comes from the exploitation of natural resources, does it not?

A Money. Yes, money comes from exploitation of natural resources.

Q So that in order to raise the quality of life, if that's the objective one has, in Brazil one has to necessarily exploit the natural resources of the Amazon Basin or some other natural resource in Brazil. Isn't that right?

A Yes but it depends on whose terms you're exploiting them.

Q Yes. Are you saying that it depends on whether or not that the people in the area have an input into the way in which the resource is exploited?

A Very definitely that they should definitely have a say and virtually a veto power if in fact, they have long-standing rights to a territory.

Q I don't want to get you involved in any controversy that you don't want to be drawn into, but could you agree with me that no country in the world has ever attempted to do what's being attempted to be done in this Inquiry, where the rights of aboriginal people and the exploitation of natural resources in a frontier area are concerned? We're talking about the Berger Inquiry.

A Well, with due respect to the Berger Inquiry, I did make reference to a similar inquiry in Australia which, by now in fact may have just been completed.

Q Are you talking about the Woodward Inquiry?

A Yes. Yes.

Q Well, I understand the Woodward Inquiry was to become involved in the social and economic impact of development. Is that the terms of it?

A I would think that the terms of reference are almost the same as those of this Inquiry. I don't know whether his honor is fully aware of or has thought of meeting up with Mr. Woodward on some occasion in mid-Pacific such as Hawaii.

THE COMMISSIONER: Mr. Justice Woodward came to see me.

A Oh, he did. I see.

THE COMMISSIONER: He came to see me in Vancouver after he had been appointed to conduct the Commission and he consulted me on a purely voluntary

basis on the assumption that I might be able to offer him some guidance. I hadn't been appointed to conduct this Inquiry at that time. He did file an interim report, I think, a year or two ago.

A Yes. Yes.

Q I think he'll probably write. He's about ready to file his ---

A Final report.

Q -- Final report. We may see if we can get him here as a witness. I hope no one takes me seriously.

MR. STEEVES: So your quarrel with the development in Brazil was the overwhelming scale of it? Do I understand you correctly? First of all?

A Not simply with the scale of it but given the scale of it, that they have been prepared to undertake such development with almost total disregard for the people. I have been a student of the Development of the Interior of Brazil for over 20 years now. I'm not suggesting that I consider myself an authority but I have maintained an interest in it and I have read about earlier ideas.In fact, the first plan, similar, very similar to the present highway network plan in Brazil was put forward in the 1830's and 1840's by a rather far-sighted president of Brazil. At that time, there was recognition of the rights and needs of the interior people and at each time that the development plans been put forward, even in putting forward the plans for the siting and development of Brazilia, the federal capital, there was a specific reference to needs of any

Indian peoples in the area and at the present time, the plan that was laid out in Brazilia primarily is a set of straight lines, has been adhered to so rigidly, and there is absolutely no need for that rigidness.

I mean that you know that in the buiding of railways and roads into the Canadian north that they hadn't all had to follow straights lines, and yet they have been so insistent in Brazil that they take the shortest distance between two points. This partly comes from a lesson they learned in the middle of the 19th century when they called in a large number of British railway engineers, and they simply instructed them to survey railways between points A and B and C and D and that they would be paid by the mileage they surveyed. On a visit to Brazil on one occasion, I was taken on one of those railroads and when we got to the destination, the excursioneer said, "you'll be very interested to know that it is to appreciate how long it has taken..." and this is due to the fact that when these surveyors -- engineer surveyors were instructed that instead of building it in the straightest line between these two points, which would have taken us about 20 minutes, because they were being paid by the mileage, they went all around over the countryside up and down hills and dales, and found themselves taking probably five or six times as far as they need to have.

I thought with that tradition that the Brazilians might have been prepared to take a few kinks in their highways to get around the Indian reservations, but they never did.

THE COMMISSIONER: Can I ask you a question about the Amazon forest?

A Yes.

Q That forest isn't just a Brazilian forest, it's a forest that extends into many other countries, I assume, including Guyana.

A Yes.

Q You said that the Amerindians of the Amazon forest have a fell-and-burn type of agriculture.

A Yes.

Q They fell a section of the forest, burn it off, plant the cassava, harvest it a few months later, move onto another section of the forest, repeat the process and do not return to that original section of the forestuntil the regrowth has occurred.

A Yes.

Q And your point was that in trying to persuade these people each to become individual farmers with stationary agricultural plots, on the design of European farmers, European peasant farmers, I suppose, you're saying that that cannot be done unless you introduce nutrients in the form of imported fertilizer and that the native people in that forest actually know more about how to make it produce.

A Yes.

Q Than the experts from the World Bank or the U.N. or wherever.

A Yes.

Q Do the experts acknowledge that?

A They do now. That is not the only point. It is not simply the factors that relate to agriculture, but the total biology, the total biology of the forest and the fruits and other products such as rubber that are produced by the forest. There is a biological system that enables these plants and primarily trees to produce, and surprisingly it varies a great deal from place to place. One of the major discoveries they've made in recent years is that the viability of the seeds of the major rain forest trees is very -- is really very low, and when the forest is cleared on a very extensive scale, the chances are that it will not regenerate as rapidly as they had expected. This is the problem with the huge land-clearing programs that they have engaged in.

For example, Volkswagen has holdings of over 100,000 square kilometers in the Amazon, and they have been burning it --

Q Is that in Brazil?

A In Brazil, yes, and they have been burning those completely. The chances are that the forest will never regenerate in those areas and this provides great problems not only for Brazil but perhaps for mankind in the future if the forest is destroyed completely in that way.

MR. STEEVES: I wanted to tell you, sir, that in case anyone pressed to draw the analogy that lawyers -- it's been 100 years since lawyers

were paid by the word. Do you follow me?

A Yes.

MR. STEEVES: That's all I have.

THE COMMISSIONER: Bad habits once engendered then die hard.

MR. HOLLINGWORTH: Sir, I wonder if I might ask one question? I realize that Professor Hills is really anxious to get the plane but I just have one short question.

CROSS-EXAMINATION BY MR. HOLLINGWORTH (CONTINUED):

Q You seem critical of Brazil and Alcan for the fact that Brazil has given Alcan a deal as far as steel in the Amazon region for an incredibly low royalty. Do you feel that it's encumbent upon someone like Alcan to turn down an offer like that and say, "Look, the people here need money that you can get in royalty payments. We either don't accept the deal or we insist on paying you more."

I wasn't quite sure what the necessary conclusion was.

A I was critical of the relationship between government and mining company or agricultural company, whatever it may be, that this possibility would even arise, and I wouldn't like to suggest -- I would like to think that given the criticism that has been aimed at Alcan about its operations in South Africa and other parts of the world, that it would learn from this lesson and be prepared to do a great deal more for the countries in which it's

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operating and for the people it employs ; but I would not go so far as to suggest that given that it feels that it has the need for bauxite that it refuse the offer to operate in that country.

Q Well, you see its role as giving more benefits to its own direct employees and that's about as far as it could go?

A This is what I'd like to think, that it could provide an example by the attitudes to its employees and to any local Amerindian population. It so happens that the Amerindian population in the area in the Trombetas Valley where Alcan is operating the population is very sparse indeed, and to all intents and purposes is non-existent. So most of the employees will have to be brought in from elsewhere.

MR. HOLLINGWORTH: Thank you.

MR. GOUDGE: I just have one or two questions, Professor Hills, if I may, dealing with the Woodward Commission.

CROSS-EXAMINATION BY MR. GOUDGE:

Q You said, sir, I think, that its terms of reference were similar to that of this Commission. Do I take it from your paper that they deal in part at least with the issue of aboriginal rights to land in Australia?

A That's correct.

Q Yes. I take it that the confusion over aboriginal rights was one of the instigations behind the Woodward Commission.

A That's correct.

Q It doesn't, I take it, arise out of any specific application for any development proposal, but as a result of the general problem presented by aboriginal rights to land, is that so?

THE COMMISSIONER: I'll answer that question.

MR. GOUDGE: All right.

THE COMMISSIONER: Mr. Justice Woodward told me that in the Nabalco case, which you referred to --

A Yes.

Q -- was a -- and it was a case that was decided by Mr. Justice Blackburn of the Supreme Court of Northern Territory in Australia just prior to the hearing of the Calder case in the Supreme Court of Canada; Mr. Justice Woodward was counsel for the aboriginal people of the Northern Territory, I think it was the Northern Territory, and he -- the case received a great deal of public attention, and aboriginal people, I think, conducted demonstrations in the capital, Canberra, and so forth. Mr. Justice Blackburn held against the aboriginal people but urged that the government look into the whole situation, it being a moral obligation, not a legal one, resting upon the country. Mr. Justice Blackburn was appointed to the bench by the old government that is now in office again.

A Yes.

Q The party, whatever it's

called, and when the Labor Party, which was then in opposition, committed itself after this Nabalco judgment came down, to setting up a Commission and so when they did become the government three or four years ago, they appointed Mr. Justice Woodward to conduct the Commission.

A Yes.

Q He also had acted as counsel to an earlier Commission on oil drilling in the Great Barrier Reef, so he had extensive experience in these matters, but I think his Commission, you'll find, is dealing with the future of the aboriginal people generally and does not relate to matters that in this Inquiry would come under the heading of social and environmental impact, and economic impact.

But in the nature of things I'm sure he winds up hearing all of the same evidence, I don't know. Do you want to add anything to that?

A No. I was simply going to answer that it arose out of a series of problems that had arisen.

MR. GOUDGE: Q Then, Professor Hills, I take it you say that there has been a preliminary report issued by that Commission.

A Yes, I made reference to that.

THE COMMISSIONER: Mr. Justice Woodward sent it to me about a year or two ago, and you can have it. You can all read it, but it really is a very preliminary report and is not particularly helpful to us -- and that's no reflection on the report itself.

It's very pertinent to Australian needs, but the aboriginal situation in Australia, as Professor Hills says, is one where there had been complete neglect in the sense that there hadn't been years of consideration by the Federal Government and other agencies given to the plight of the aboriginal people, as there has been in Canada for good or ill, that process has been going on for some time.

MR. GOUDGE: Well, perhaps, sir, if we could get it from you and each have a look at it, I won't have any more questions of Professor Hills. Thank you, sir.

THE COMMISSIONER: One last question, Professor Hills.

A Yes.

Q I asked you about the Soviet Union earlier. The Smithsonian Institute wrote a series of books about aboriginal peoples and aboriginal economies and in one of those I'm sure the race of people you referred to --

A Samoyed.

Q Samoyed is referred to. Another race, though, is called the Chukchi?

A Chukchi.

Q My understanding from reading that book is that the policy of the Soviet Union, certainly until the time that you studied the situation there was one of assimilation.

A That's right , yes.

THE COMMISSIONER: Well, any

re-examination?

MR. BELL: No re-examination, sir.

THE COMMISSIONER: Well, thank you very much, Professor Hills. You're free to dart for that aircraft.

A Thank you. Sorry that I have to flee.

THE COMMISSIONER: The rest of us will have a cup of coffee.

(WITNESS ASIDE)

(PROCEEDINGS ADJOURNED AT 11:15 A.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. BELL: Dr. Simpson is now available for cross-examination, Mr. Commissioner.

DONALD G. SIMPSON, resumed:

MR. GOUDGE: Yes, I think we're ready to cross-examine Mr. Simpson -- Dr. Simpson, sir, and Mr. Bayly isn't here so Mr. Sigler would be next.

CROSS-EXAMINATION BY MR. SIGLER:

Q You seem to make the point in your evidence that it's encumbent to the point that the ideal for the native people in a region to be able to have control over their own development in terms of deciding and timing and what development should take place. I wonder, say, in a region such as the Northwest Territories, how that view might be reconciled with the fact that there is, well, not a majority but a large minority of non-native people present in the north. What kind of a system could you see being established for the Territories such as this where there's both elements present in terms of having local control, where both segments could take part in it?

A First of all, it would be to go against my own suggestions if I were to start to lay out specific details of the kind of system that should be developed in the north, because I'm talking about local involvement to develop the process.

I see nothing inconsistent with what I say about the need for native people to have that control, and the fact that there is a sizeable non-native population in the north. Infact, it is because my expectation is that in the not-too-distant future, the non-native population may be much larger in the north, that I would underscore the point that it is essential for the native population to have this kind of control if there is to be an amicable inter-relationship between the two groups. I think as long as you don't have that, you're in for trouble.

Q You're saying it's necessary in order to preserve an amicable relationship.

A Yes.

MR. SIGLER: Those are all the questions I have.

MR. GOUDGE: Mr. Hollingworth?

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q I'm not quite sure I understood your answer to Mr. Sigler. Are you thinking in terms of the native population here having a separate almost province-like area of their own, and indeed a province of their own when you make the comments you're making, or are you talking about the natives holding title to certain of the lands in the Mackenzie Valley and then developing them in their own terms? What exactly are you referring to in your answer?

A Well, I can understand why you would want to push me further into specifics,

and I will only go a little bit further, because I think it's part of the issue I made that although it may seem irresponsible to be talking about a process that is politically vague in the beginning, my point is that it's more irresponsible to assume that the present situation can continue. I think much of the thrust of what I was trying to say in my paper relates to the thought system that one brings towards political decisions, economic decisions, management decisions, and if the thought system that one has is that there is only one kind of structure that you can develop, now we have to do everything we can to make those other people happy with that kind of structure. My experience elsewhere would indicate that that's going to be a very difficult way to achieve what's best for native people and what's best for the north.

I would say that what I see from international experience is that the minimum is some kind of institutionalized power structure which probably is related to a control over certain lands which ensures that they would have the possibility of ongoing impact into the decisions in the north, regardless of what happens to population changes in the future. Now you may be saying, "Well, that's still pretty vague," but I think that's the general principle that hasn't been accepted and my argument would be that if that general principle were accepted by the federal politicians, by the territorial politicans, my guess is that it would change many of the relationships in the north, that it might take some years to work out

the specifics of what the power structure becomes. But I think it would be a major hurdle if in fact that concept were accepted.

Q Well, I see your problem and I see your reluctance to get into specifics, particularly in view of the philosophy you've expressed in your evidencein chief, but you must understand our problem, and that is that we have to recommend terms and conditions to the Commissioner as to what should be attached, if any, to a pipeline that goes up the Mackenzie Valley, and one of the great issues before us is this question of native rights and native land claims we are struggling with now. As I understand your answer, you feel that some sort of institutionalized political power ought to be granted to the natives of the Northwest Territories, but that's as specific as you care to get at this time.

A Yes, I'd go back to you and say that you acknowledge my problem. I acknowledge your problem, that you may have to keep grappling with, is the question that you just posed to yourself; the key question, is that the first decision that has to be made?

I remember a new member of the Department of Indian Affairs coming into Southwestern Ontario and developing quickly some ideas about economic development for the Muncey Oneida Reserve and preparing to go out and present them to the Band Council, and he asked me if I would go along with him to the meeting. We went to the meeting and he made

his presentation and asked the Band Council for their reaction, and the first person who spoke made brief reference to what the man had said and then went off in quite a tangent about some of the things that were happening in the community,and the Indian Affairs representative kept saying," Yes, but let's get back to my proposal now. How do you feel about my proposal?"

The second person would speak and say a little bit about the proposal and then get off onto other things in the community, and he kept saying, " But I want you to react to my proposal."

Well, when we finally drove home that night he was furious.

I said, "What are you furious about?"

He said, "Well, here I spent all that time preparing that concept for them and they wouldn't even react to it."

My reaction to it was, "They were giving you an answer all night. You weren't listening. They were more polite than you were about how they were going to respond to what the key issue was, and they weren't prepared to tell you to your face that your ideas were nonsense, and so they took you off on little tangents on how their community was developing," and it may be that you're faced with a similar problem here, that you keep coming back to the question of, "Well, what do we have to do in order to make a pipeline acceptable in the very near future?"

That may not be the key

question, and if it isn't the key question then you've really got a problem.

Q Did I say that was the key question? I wasn't sure I had.

A That's what I understood you to say, that you had to make recommendations related to the building of a pipeline.

Q Those are the terms of reference of this Inquiry.

A That's right.

Q As set down by the Government of Canada.

A My point still stands.

Q O.K., I'll send a copy of the transcript to Mr. Trudeau. Sir, you site the Aswan Dam "disaster," if we can put that in quotes, and you point out that many specialists predicted most of the ecological and human events that occurred. Is that correct?

A Yes.

Q And your point then I take it is that there should have been more forethought given to this and maybe a lot of these things wouldn't have happened.

A Yes.

Q And wouldn't you agree, sir, that that's the complete purpose of the Inquiry that you're appearing before now?

A Yes,

Q And to that extent, and

then this is a considerable improvement on the situation in Egypt.

A And I acknowledge that in the last paragraph of my presentation.

Q Many experts have been heard here and continue to be heard on the very points that are at issue, including yourself.

A This is a thing that hit me as I was listening to Mr. Steeves' questions, of the previous witness, that the whole context, as I heard it of the presentation of the Amerindian situation in other parts of the world, and what's happening with some corporations in other parts of the world, I did not hear it or read it as an attempt to develop some great devious conspiratorial theory, but to put the Amerindian questions in a world context, because when some of the questions that the native people of the north were asking about development in the north were first made, some people thought it was ridiculous that they were even raising it.

With regard to comparisons between Brazil and Canada, I would agree with you, that if the Canadian Government were like the Brazilian Government, we wouldn't be here. So we are here and we're making reference to the situations that have existed and happened already in other parts of the world, from the point of view of hoping that that evidence and experience will help us to ensure that it doesn't happen here.

Q To that extent, this Inquiry is obviously an improvement on what happened in Egypt and what's happening in Brazil.

A Yes.

Q Now sir, you'll be glad to know --

THE COMMISSIONER: So far, so good.

A Well, let's pick up the Brazilian one again.

MR. HOLLINGWORTH: Well, sir let's not pick it up right now. Let's go on --

A You've added a comment that makes reference to my last statement. I think I have --

THE COMMISSIONER: I think Dr. Simpson should be allowed to complete his thought, Mr. Hollingworth. Go ahead. You wanted to say something about Brazil.

A I mean, the reference to a Brazilian Government was that the Brazilian Government is improving in the sense that up until two years ago when they were building that highway they sent out white hunters to kill off the Amerindians, to shoot them and it was only very recently that the first group of white hunters were finally brought to Court and they couldn't understand why they were in Court because this was a perfectly acceptable behavior as far as they were concerned.

Now, hopefully we're a long way

away in the Canadian north from that kind of concept. Therefore, I'm quite prepared to say "yes, it's an improvement over the Brazilian situation", but when you look at the thought process that's going on in Brazil and around the world, it still has the relationship to the fact that the local people really aren't that crucial. They don't know what's best for them. That economic man is the primary consideration, therefore, if the economy needs it, it goes ahead. That large scale production projects are the key answer that will be for the greatest good of everyone and that by doing these things, we will have a trickle down theory that eventually helps the native people. In that sense, the kind of examples that you had reported from around the world are similar to some of the arguments made for large scale resource development in the north.

That's what I think we're talking about when we say we're putting it into world context. We're not trying to compare our country point by point with country X in another part of the world and say, "Are we better? Is our government better than that? Are we more democratic?"

MR. HOLLINGWORTH: Well sir, you're putting them in the world context but I suggest to you that your paper and that of your predecessor are open to the interpretation and the comparison that's being made and I'm attempting to bring out the point that in fact if comparisons are made, there are substantial differences as well, and in no way can you equate the situation in Brazil to the situation in the Northwest

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Territories with respect to some of the elements that you have brought out, including this disgraceful business of sending out white hunters to shoot Amerindians. Now, isn't that so?

MR. BELL: I think he just answered your question, didn't he?

A I'm trying to think that if that's the kind of comparison that you read in to what I said, then I'm not sure what kind of concerns and worries you have in your mind if you read that kind of comparison in it.

MR. HOLLINGWORTH: I'm concerned about the unfavorable comparisons that might be made between situations that I see as fundamentally different.

A But if you look again at my paper--

Q Rightly or wrongly.

A -- I concentrated almost entirely on talking about people with good intentions.

Q Oh yes, your paper did sir. I was referring to your last answer.

A I have no further comment.

Q Neither do I.

A I don't what you're --

Q Let's go on. In your evidence in chief at the top of page 12, you are critical of a project which bring people out, entice them out of their villages to work on construction which is over in record time and then the people are left high and dry without jobs and without any means of income. That's the essence of those remarks, is it not?

A That's right.

Q Have you ever heard of the Nortran Program that's been advanced by the petroleum and gas transmission companies?

A I've only heard of it.

Q Well, simply put it, it's a program to train northerners to eventually take jobs on a northern gas transmission line and in the gas gathering facilities that would necessarily accompany such a line, and we recently heard from the Nortran panel up here who stated that they emphasize training northerners on jobs which would be ongoing rather than on construction jobs that were short lived. I take it that you would agree with that type of philosophy, would you?

A If there are northerners who want to work on those jobs.

Q Absolutely. Nobody's forcing them there. Mr. Scott, Commission counsel, in his cross-examination was, I suggest somewhat critical of Nortran for not training northerners to go into construction which I think, it is agreed, would be of a shorter term and duration than the long-term operation and maintenance of the gas line. Do I take it that you would disagree with Mr. Scott's criticism?

A I would not want to comment since I didn't hear Nortran's presentation nor Mr. Scott's concern with their presentation.

Q Well also a previous witness for the Brotherhood was Mr. Richardson who spoke about James Bay, and he was critical of the fact that very

few natives were employed in the construction project itself. In view of your commments on page 12, would you agree with Mr. Richardson?

A I see no reason to comment on Mr. Richardson's comments unless you would like to quote them exactly and --

Q Well, I think I'm fairly putting the essence of Mr. Richardson's remarks. He is critical because of the construction program not employing native people in the surrounding area.

A But if we get into the issue of the construction -- the employment question, it's clear now that any company that wants to work in the north is going to have to develop an employment program. Maybe they're doing it because they think it's a good idea but if they don't feel this way, they're going to have to do it because the Minister of Indian Affairs and Northern Development has made it quite clear that that's going to be one of the pre-conditions for any of these projects.

When I first came to the north, the debate on northern training was quite a different one, and that's only eight years ago, so we've got a requirement now that requires training. But, we still have a philosophy among people who are forcing those requirements that feel that this is the answer and what I'm saying is obviously, I don't object if there is going to be a particular project, surely there should be some training related to that project. But, I am objecting to the assumption that those projects by themselves will provide

the answer.

I was involved to some extent with the P.N.G. plant in northern Alberta which was subject to government requirements of how much, what percentage of native people they had to hire and, you know, one of things that was just amazing, it would have been humorous if it hadn't been so sad, was that that company had no concept of the lifestyle, the thought processes, the social interaction of the native people they were trying to hire. Now, I give them full credit. ONce they made a mess of it, they came looking for advice and we sat with the panel of native people who were working in this area and a few of us who were working on cross-cultural education and we asked them what were they doing to attract native people.

Well, I won't go into the whole process but when you get into a battery of I.Q. tests, etc. and you're trying to attract somebody to a different type of work and lifestyle, it just didn't work.

Now, I'm still back to my main theme of the attitude that you bring towards all of these decisions and I'm saying if the outsider is not capable and I'm not sure that as a group we are capable of understanding the attitudes, decision making processes of a group from a culture quite different than our own. Then they have to have the institutionalized power structures to make some of those decisions for themselves.

Q Well, I didn't think that I was contradicting you on that. You've gone into a larger

issue it seems to me of whether people in fact will be interested at all in these construction programs or work afterwards, and that is a larger issue from the one that I raised with you which was your criticism of people employed on short-term contracts, and I think on that smaller point, we're in agreement, are we not?

A That's where I'm criticizing? Yes. We've had examples of it in the Canadian north.

Q That's right. Now on page 19, you refer to the guerrilla war caused by the British not seeing or refusing to see that a native man's pride was ownership of land and the enjoyment of allowing the collective use of that land. I think I've put it fairly, have I?

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A Yes.

Q That, of course, is the Mau-Mau Uprising you are referring to, is it?

A It eventually led to the Mau-Mau uprising.

Q Are you saying that this is the sole cause of that uprising, that refusal or --

A No.

Q -- Is it even a major cause of it?

A Yes, I think originally it was a major cause of it because when the British settlers came in to that part of Africa, they could not conceive that land that was not settled on belonged to anybody.

Q They saw it in their own terms.

A They saw it in their own terms.

Q Well, I was just interested in that point because you seemed to imply that that was the sole cause of the uprising -- purely an academic interest.

A No, I thank you. If that's the way it reads, I am happy to have you correct me because it's --

Q All right.

A -- obviously only one of the causes.

Q I take it from what you

have been saying here, your experience was largely with what are generally called "developing countries", newly emerged nations or countries that are struggling to pull themselves up and your feeling is that the best thing is for them is to develop within themselves with some guidance perhaps but not for someone to go in and impose ameliorative measures on them?

A Yes.

Q That's the thrust of your entire statement? Isn't there a difference though between that and the situation here where we have got a region and a people within that region of a one whole country that are perhaps in the same situation as the people in developing nations with which you have been dealing in the past?

A My argument would be that if you see the difference only being the northerness, then you disagree with my thesis because to see the difference only being based on the fact of a northern region different from the rest of the country and not the difference being rooted in lifestyles, culture and identity, then we disagree.

Q Well, let me just go into that a bit if I can and you have dealt with certain countries in the Caribbean, for instance. Would Jamaica be one of those?

A I have spent considerable time in Jamaica if that's what your question is.

Q Well, when you deal on the terms that you have outlined with a country like

Jamaica, I take it, that you just leave the development to the Government of Jamaica. You don't go in, look around Jamaica and say "Well, Kingston is relatively developed compared to the interior so let's concentrate on the interior because those people vis à vis Kingston are in need of developing themselves."

A Your question, sir?

Q Well, I take it that you leave it to the government of the country to decide where this development is going to take place.

A Which is a government of a particular culture of people.

Q I see. There's a difference there, is there, because the Government of Canada doesn't represent the culture of the people in the north? I'm not trying to trick you or anything. I'm having difficulties grasping your point.

A If you think that I am saying that there is something distinctly different, or let's pick up your way of putting it -- that the developing countries are exactly the same as northern Canada and you're raising the question, "But isn't northern Canada part of a country?"

My point is rather what have we learned from trying to help former colonial countries develop. Now the same kinds of questions that we're asking each other here in the Inquiry about the north and the rest of Canada now have to be asked within those developing countries. Sao Paulo is developed, northeast of Brazil isn't; Northern Ghana

suffers while the Ga people of Southern Ghana prosper.

Q That's it. You can reduce it to the absurd if you carry on to the end.

A I don't see it being reduced to the absurd. I see it being reduced to the humane, that wherever you go in the world, you see the difficulties of cultures interacting and now that the colonial period is over in some countries, we see governments who have developed a finely tuned mechanism for dealing with the cultural disparity within their countries. We see other developing countries who don't do this at all. So the question is just as forceful that then what are you doing to deal with the ethnic minority in Northeast Thailand? Why are you squeezing them out of all of the decisions?

What I want to make is that question is being raised. It's being raised in Thailand; it's being raised in Kenya; it's being raised in all the developing countries where there are distinctively different cultural groups living a different lifestyle. It's being raised in various parts of Africa where there are nomadic groups. The European came and looked at nomadic groups living on the desert and saw them basically as a group of people who moved around with their camels and goats from point to point so drawing the boundary lines for countries didn't seem to make any difference. I mean, you don't have to worry about these people, but it was both an exhilarating learning experience for me to begin to understand how those nomadic tribes were functioning. That the key

thing for the nomad were the wells that existed on the desert. Therefore, each little group had a certain day of the month that they could use the wells. If you didn't arrive in time, you missed your water for that month. If somebody committed a crime and fled, the word went out to all of those nomadic people what the person had done, and the wells were closed to him, which forced him to come back and face his punishment. Now, to me that was a WASP from Western Ontario being introduced to a concept of social organization that I had never dreamed could exist and that's the point we're talking about. We're not trying to make comparisons between Jamaica or Canada. I don't know whether that satisfies you.

MR. HOLLINGWORTH: Well, I think it's going to have to. Those are all my questions. Thanks.

MR. GOUDGE: Mr. Steeves?

CROSS-EXAMINATION BY MR. STEEVES:

Q I'm not sure, sir, what you are talking about, getting down to the situation in northern Canada. Are you suggesting when you talk about their own institutions and viable alternatives, the system that you can label as isolation? You are clearly, I think, against the concept of acculturation or assimilation as being destructive of other human beings.

A I am in favour of allowing a range of options and the option at one end may be complete assimilation but that option will be made as a free choice by certain individuals within that culture

rather than being made because it is the only option available.

Q Would you take bi-culturalism as a valid political objective for Canada?

A I don't mean to be flippant about that but when we used the term bi-culturalism in Canada, it conjures up certain images in our minds.

I remember when we first brought Tom Mboya, the labour leader who did so much to bring Kenya to independence and we brought him to Canada and took him to a meeting with a number of federal parliamentarians. I remember after the dinner, Gordon Churchill getting up in what I thought a very paternalistic and fatherly way, saying how nice it was to have Tom Mboya here in Canada, this young ex-colonialist and we would certainly do everything we could to help him with his problems. Then he asked the question and Mboya just sat looking, staring straight ahead through all this flippant jokes of Mr. Churchill and then Mr. Churchill said to him, "I'd like to ask you a question about your country. Can you tell me how many people are literate?" And Mboya looked up and said, "In what languages?" You know, Gikuyu, Masai , but when we think of literacy, what Churchill was asking of course, how many of them could read and write English. So when you say, am I in favour of a bi-cultural policy for Canada, what are we talking about -- English and French? Are we talking about French and Loucheux? Are we talking about English and Slavey? It's a difficult question to answer.

Q Perhaps my question wasn't

clear. Do you think that bi-culturalism is a viable political objective for Canada?

A I'm sorry. I still don't see the point of the question.

Q What does that mean? You don't understand the question or you are trying to anticipate where I am heading?

MR. BELL: I think he is likely interested in what you meant by "bi-culturalism".

MR. STEEVES: Well, just let the witness answer. Your counsel has told me you don't understand what I mean by "bi-culturalism". Is that what you want to tell me?

A That's right.

Q Okay. You understand the concept of so-called multi-culturalism?

A I understand there is a term we have begun to use in recent years in this country that we throw around rather loosely called multi-culturalism.

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Q You understand what's meant by it?

A When I get a chance to deal with specific individuals and am able to probe with them, what do they mean, where do they stand, what are their positions, and I understand what they mean by multiculturalism, I don't understand what is meant generally by the term "multiculturalism", I understand --

Q You understand what is meant by it when it's used by politicians; if you want to give me another flippant answer, do so.

A I'm not trying to be flippant, really. I think you're probing in an area where the term "multiculturalism" in recent years as used by politicans has been used to cover a whole host of ideas and concepts, and can be flipped back and forth, depending on the group to which they're talking, so I don't think it's flippant to say to you, "I'm not sure what you mean when you say, do I think it's a viable political concept?"

If you think that that's me worrying where you're going next, then maybe we should go to where you're going next.

Q We're now into the question of the dangers of western rational thought, aren't we?

A Well, I just -- this kind of discussion pops something into my mind, that the old story of the teacher at the International School,

asking their students to write an essay on the elephant. The British student writes his essay,

"The elephant and the Empire."

The French student writes his essay,

"The sex life of the elephant."

The American student writes,

"How to build bigger and better elephants."

And the Canadian student of course entitles his essay,

"The elephant, is it a federal or a provincial responsibility?"

(LAUGHTER)

MR. STEEVES: I think we've heard that story before here. Thank you.

THE COMMISSIONER: Mr. Goudge?

CROSS-EXAMINATION BY MR. GOUDGE:

Q Dr. Simpson, would you turn to page 28 of your prepared evidence, please?

A Yes.

Q You begin on that page to list a variety of criteria, but before you do, let me ask you this, I take it in your view there are theoretically a variety of ways that productive capacity might be organized in any given community or society. No doubt about that?

A That's correct.

Q And you make the point, as I understand you do on that page, that some ways of organizing productive activity probably exist which allow the achievement of those criteria. Is that the point you're making on that page?

A I'm saying that everything I can gather from looking at other countries and talking to the people who are supposedly the most informed in the field, there is no-- you know, there is reason to believe that they can be developed-

Q Yes. From your experience would you be able to give us outlines of the various ways that productive activity could be organized so as to achieve those goals or criteria in the north?

A I wouldn't like to think of this as being an all-inclusive --

Q No, no, and I appreciate your basic point that you say northerners should be generating these for themselves, but what's the range? What are the varieties, without being exhaustive in your list, that you perceive to be available?

A Well, certainly one of the obvious ones is the communal organization of productive activities, and although we throw that term back and forth very quickly, perhaps we sometimes forget what the implications are for investment and technology, and I'd like to take it down to a very simple level, that if you're going into an African country and are worried about the storage of grain, because it's rotting, and this is what is really keeping a low yield from agriculture, because much of what they produce never gets out to a market. If you go in with the concept that individual competitive productivity is the accepted way, the organization of grain storage will be very different than if you go in with

the concept that communal productivity is the accepted way. Now that is a simplified specific example of organizing some of the facilities for productivity, but it has a great impact on the way in which investment takes place in that particular area, and the way in which production is organized.

Q So you would see communal productivity as a form of organization that might be one possible way of achieving the criteria you set out in your paper.

A That's right. The second thing I would say is that we have geared ourselves to a particular time frame of work productivity, that is you work so many hours a day, so many days a week, so many weeks a year, and that's what one does if he joins the wage economy. There are places in the world -- there are a number of situations I've come across in Africa where there is a combination of what might loosely or generally be referred to as the traditional way of life off the land and the wage economy, where the two are mixed, where people work on a wage economy for a particular portion of the year and live their traditional life for another portion of the year.

THE COMMISSIONER: Could I interrupt you for a minute, Dr. Simpson? First of all, forgive me, I want to adjourn at 25 after 12. What time is it?

MR. GOUDGE: My watch says 25 after, but it may be a little fast.

THE COMMISSIONER: All right,

let me ask you one question then we'll adjourn and you can think about it and answer it after we come back at two.

I re-read your paper this morning and I thought you were driving at something that maybe quite fundamental, and let me just put it to you. I thought that you were saying to us, "We white people, western people, should understand that the native people of the north really are different from us, that we should stop trying to remake them in our own image, in terms of education, the wage economy and so on."

Now I think that there's a certain amount of -- I think a lot of people representing all participants would acknowledge the errors of the past in that regard. Then you went on and said,

> "We expect that if we for instance introduce them to the wage economy and educate them the way we educate our own children in Vancouver, Montreal, or in the WASP Heartland of Southern Ontario, that they will be motivated in the same way that we are and that their behavioural responses will, over a period of time, and over perhaps a generation of two, become like our own. You've said we've proceeded on that assumption, we've embarked upon the condition of native people to make them behave like us, to live in the kind of houses we live in, to do the kind of work we do, to read and speak the same language we do", and so on.

So far I think everybody understood what you were getting at. Then you quoted Melville Herskovitz and other people and you seem to be saying, "This way will never work." That is, we have to grant -- perhaps "grant" is not the right word, but we have to recognize that native people are entitled to some measure of political and economic self-determination and only in that way will they re-establish a dynamic within their own collectivity as a culture that will enable them to decide for themselves what part they want to play in the economy and what their own future is going to be.

You seem to be saying that any other way except that latter way is doomed to failure on the basis of your experience in the Third World and so on and so forth. I'm not putting this very well, but you seem to be saying that if we sought to, as representatives of one culture, to continue to arrange the affairs of another culture and its people, that the result would be, not the integration of those people inour economy, but they would continue one way or another to be driven to the fringes of the economy and as a result would be collective demoralization of a kind that we've seen some evidence of in Southern Canada and up here in the north.

Having said that and perhaps created utter confusion in the minds of everyone, we'll adjourn until two.

(PROCEEDINGS ADJOURNED TO 2 P.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: We'll come to order, ladies and gentlemen.

Q Dr. Simpson, when we adjourned I had asked you to comment on what I understood to be, what lay beneath your paper. I'm not putting it very well, but that's something of what I got out of it.

A I don't know that I have much to say in response because I think you did summarize one of the main thrusts of what I was trying to say. This implication for some kind of institutionalized power structure that will give them that kind of continuing impact in the decision-making of the north is one of the key things that I would see as being essential for useful interaction. I find it interesting that so often when this point is raised it seems to be raised in the context that if you do move in that direction, then you're setting up something that will cause real problems that will increase the friction between groups. I guess what I am saying from my experience is that in fact moving in that direction may be one of the essentials to removing some of the key frictions. So I would agree that what you've summarized is what I was trying to argue for in the paper.

THE COMMISSIONER: All right, I interrupted you, Mr. Goudge. Go ahead, Mr. Goudge.

MR. GOUDGE: Q Just a couple more questions, Dr. Simpson. I was exploring with you a variety of possible ways that native productive

activity might be organized in order to achieve the goals that you set out on page 28 of your evidence, and you've given us, I think, two alternative ways A form of communal organization and the joint wage traditional activity combination, I think, that you've described having seen in Africa. I wonder if you have any other ways of organizing native productive activity that you would like to add to that list?

A I don't think I'd like to go on with the list of specifics, but perhaps elaborate on the question by making reference to the issue of technology. First of all, the president of our organization started out his life by taking his young bride and moving to an Indian village, that's East Indian village close to New Delhi. He was an agricultural economist, he spent three years living there, trying to, using his North American university agricultural technology knowledge, and their resources, and he tried to outgrow the Indian peasant farmer. For each of those years he found that the peasant farmer out-produced him, and he says so often at gatherings when we start getting too convinced of our own approaches that this is perhaps the most significant thing that he ever did in his life. Because it convinced him that they had learned how to organize, utilizing the resources that were available to them. I don't want to go further into what the Indian farmer does close to New Delhi, nor would I like to go further into the exact organization that might take place in the north.

Q I take it then when you wrote your first paragraph on page 28 and postulated alternative kinds of organization that might achieve these ends, you were simply confident that ways could be developed. You didn't have a catalogue in mind.

A I did not have a catalogue in mind, in fact I was to a great extent summing up what I was being told by the people working in the field, the people who are looking at how Thai villages utilized local technology, how they integrate outside technology with their own technology. I was talking about how certain areas of Japan have been able to evolve a mix of traditional and other technologies into their life, and I asked them the question, "Do you think these kind of things are possible?"

And their answer back to me was, "Yes, far more possible, far greater range than the technologist had assumed in the past."

The technologists moving out into the developing world from the late '40s, early '50s on, for 15 years tended to function on the basis that if you were going to move into these countries then they really had to accept the way we did things, the way we organized, and the way in which we used our technology. What I'm being told is that the research now is showing that the range, the malleability is much greater than had been anticipated.

Q I take it then that that research would show that at least these two alternative forms; communal organization and the split wage economy traditional existence form, have in the past been able to successfully accomodate both technology and aboriginal aspirations?

A As long as we're using technology in the broadest sense of the word.

Q Now, I take it from page 25 of your prepared text that your fundamental proposition or at least one of your fundamental propositions is that as you put it in the last paragraph, control must exist over investments which impinge on and interact with the structure of the society concerned. Is that a fair paraphrase at the bottom of page 25?

A Yes.

Q I take it the corollary of that is that if an investment or a project if I can use that alternative phrase, is shown not to impinge on or interact with the society, the rule that you propose need not apply? Let me put the example in terms specifically of this. You look quizzical, and so let me use a specific example. Deal with the pipeline proposal; if it were shown, hypothetically, that that proposal or any other did not impinge on or interact with the society into which it was to be placed, your rule which you propound or the principle you recite of the desirability of control, would not apply.

A I would answer it by saying that the other main point that I'm making in the

paper is that what we conceive of as being an infringement or an impingement on a society has in the past been far too narrow, and when we moved to other countries and built things, we were quite confident that these really weren't going to affect these people. What we've learned is that the ripple effect, the side effects that I tried to give some examples of, are much wider than we had imagined.

Q Yes.

A Therefore, I find it difficult to get down to a specific case in the north and say, "Is this impinging on the society or is it not".

Q Well, before we come to that, I take it your answer is, in a sense, "yes, I agree with you but impingement must be viewed more broadly than it has been in the past".

A Yes, I'd accept that.

Q Yes. Now, can your thesis be refined to this extent that there is some corollary between the extent of control and the extent of impingement, that is, the more the impingement, the more the necessity for control?

A You mean, can you be partially pregnant? Again I'm struggling with how can you impinge on somebody's society a little bit and say "that's different than impinging upon you a lot". I don't see that my thesis goes any farther than saying, "we have to look at impingement upon somebody's society in a broad sense and that people in that society have to have some control over the investments and the

technology that are used in that society or all the other things don't make any sense. I don't know that I would like to elaborate further than that.

MR. GOUDGE: Yes. Thank you. Those are all the questions I have Dr. Simpson. Thank you very much.

MR. BELL: No re-examination sir.

THE COMMISSIONER: Well, thank you very much Dr. Simpson. I certainly have enjoyed your evidence and it's been very helpful to me and I'm sure to all of us, and we appreciate your willingness to chat freely and frankly about the propositions you've raised, so thank you again sir.

A Could I be permitted to make one last point because --

THE COMMISSIONER: Certainly.

A -- I'm surprised that nobody has picked up the technology concept, and I think it is something that might be intriguing to some of you because it certainly was to me.

We found in a development of technology very specific technology in a range of fields. Let's take the computer science field. That we've almost reached the limit to which we can grow using the present thought systems that we have. There's a group of scholars in Europe and a couple in Canada involved in this whole problem. Some of us who have been involved in using computers for cross-cultural education have been amazed to find a way in which Africans and the way

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in which native people have utilized the technology in a way significantly different than it had been planned.

This just raises a great degree of excitement among the field of people working on these concerns, and I guess one of the issues I'd like to leave at the end is, I hate to hear us talking about separating them off or putting them back into a traditional type of life as if that is a negative. What we're beginning to find in the field of science is that it's a very strong positive that can help us, and the feed-back in this area of technology is starting to become significant. Thank you.

THE COMMISSIONER: Let me just say that the point has been made, Mr. Richardson made it last week, that we, the people who are epitomized by western man, can learn something from the value systems of indigenous peoples, their ways of life and so on. You're suggesting that in the realm of science and technology where we have always felt, whatever doubts we may have had about our own value system, we felt at least in the realm of science and technology we were supreme. You're suggesting we might learn something from indigenous peoples in that area.

A That's right.

THE COMMISSIONER: O.K., thanks very much.

(WITNESS ASIDE)

MR. BELL: I think we now come, sir, to the cross-examination of Messrs, Bean, Cheezie and Kurszewski, which was postponed from last week.

THE COMMISSIONER: All right, Messrs. Bean, Cheezie and Kurszewski.

WILF BEAN,
CHIEF GERRY CHEEZIE,
GEORGE KURSZEWSKI, resumed:

MR. GOUDGE: Mr. Sigler would begin,sir. I don't see Mr. Bayly.

MR. SIGLER: Thank you, sir.

CROSS-EXAMINATION BY MR. SIGLER:

Q Mr. Kurszewski, in your resume attached to your paper you say you're the president of the Fort Smith Local of the Metis Association of the Northwest Territories. You say that is correct. I wonder if you could tell the Inquiry just a little more about yourself, how old are you?

WITNESS KURSZEWSKI: I'm 21.

Q And where were you born?

A Fort Smith.

Q And you lived in Fort Smith all your life?

A Right.

Q Now in your paper I take it that you're using Fort Smith as an example; that the system of local government that is in Fort Smith as an example of a type of system that's been imposed on the people without their having any input into it.

A That's right.

Q And you then from the general you use the specific example of the 1975 Fort Smith election to show how that system worked against the interests of the people, you feel. Now, you state in your paper that the population of Fort Smith is

approximately 2,800 people and of that there is 1,600 of them are Dene, 1,200 are white people. Is that correct?

A That's our estimation, yes.

Q Now do you know when the system of Municipal Government was first established in Fort Smith?

A The Town Council structure was established approximately ten years ago. I can't give you the exact date or the exact year to it.

MR. HOLLINGWORTH: Excuse me, Mr. Kurszewski, could you move the mike a little closer to you?

MR. SIGLER: So approximately ten years ago the present system of Town Council was established. Now, I want to turn next to the 1975 election that you used as an example of the system working against the interests of the local people. Now just generally is your complaint a complaint that the native candidates lost in the election, or is it a complaint about how the election was handled?

A No. What we are saying in our brief is that the people were reluctant to take part in this system, and that has been shown to us in the past ten years or approximately ten years that that type of system has been in effect in Fort Smith, and the last 1975 Municipal elections was the period in time where we tried to make a full effort and the people tried to make a full effort to take part within the system as much as possible in order to become part of

the decision-making process that exists there, and in the years that the local government structure that has been set up there has existed, it's been shown to us through the operations of the Municipal Council and the participation that native people had in the elections that this type of system was not a system that the native people of Fort Smith were familiar with and couldn't effectively take part in that system.

Q Well, the question you were asked is the impression I got from your evidence was that if the natives candidates had won the election that everything would have been all right; but your comments are more fundamental than that.

A It's more than that, yes.

Q All right, now on the '75 election, I'm correct, am I not, when I say that there was a position open for Mayor, first of all there were three candidates that ran for Mayor, and they were Stanley Edkins, who is a business man there, the manager of a local air charter service who has lived in Fort Smith about three years.

A M-hm.

Q And there was Paul Kaiser, who was the second candidate for Mayor, who is a long-time resident and a merchant there in Fort Smith; and the third candidate was Joe Mercredi, who has lived in Fort Smith only a very short while. Are those the three candidates who ran for Mayor?

THE COMMISSIONER: Long-time resident of the Territories, though, Mr. Mercredi..

A Those were the three candidates, all right.

MR. SIGLER: Q And of those three candidates, the native candidate was Joe Mercredi.

A Well, he's a native person, all right, but there was no organized effort on behalf of the native people to run or to put in a candidate for Mayor. That was of his own choosing.

Q All right, so your comments then were not with respect to the Mayoralty election but rather the election for council.

A Yes.

Q All right.

THE COMMISSIONER: You're saying that you weren't anxious that Mr. Mercredi should run, is that the point? Well, all right, let's go on.

MR. SIGLER: Q But you're criticizing the results of the council election more than the results of the election for Mayor.

A Well, it's not the results.Actually the results in the effect of just the number of people that got on that I'm criticizing. We've undertook this project to try to become part of this local government system because the people have been over the past few years especially expressing a need and a want to take part in their own future, and at that time we thought that we would try to make an organized effort to become part of that local government structure there.

But more than the outcome of the election, as to how many people were elected to it or which candidates were elected comes into play here. What the project showed to us very clearly was that the native people were not familiar with the election procedures and basically were not familiar with the system that we were trying to take part in.

Q Well, who were the candidates who ran for counsel, the native candidates?

A Joe Bird, Francois Paulette, Margaret Shott, Daniel MacDonald, Madeline Gibot, and Phillip Mandeville.

Q Now, Joe Bird was in fact elected was he not?

A Yes he was.

Q He came in second at the polls out of 11 people that ran.

A M-hm.

Q The other candidates that ran, Madeline Gibot is a long-time resident of Fort Smith I understand.

A True.

Q She only got 72 votes, is that correct?

A That's correct.

Q Daniel MacDonald had lived in Fort Smith since birth and he received 203 votes?

A Somewhere around there.

Q It required 244 votes to get elected right?

A I think that was the figure, yes.

Q Phillip Mandeville received 85 votes.

A Yes.

Q He lived in Fort Smith all his life as well. Francois Paulette had received only 100 votes.

A Yes.

Q Is that correct? It is also true though that Francois Paulette had not lived in Fort Smith continuously as he'd left Fort Smith and returned there just for the elections, is that not correct?

A No, that's not correct.

Q How long prior to the election did he return to Fort Smith?

A He's a permanent resident of Fort Smith, but had done or taken on different jobs in other places at different times but not for any lengthy

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period of time.

Q But he's not living in Fort Smith now though. He's --

A Yes he is.

Q He is?

A Yes.

Q It's also true to say in the election that there's some of the white candidates that ran that were defeated.

A Yes.

Q Now, do you know in the election itself if anyone was actually -- I want to try to get a little more specific on your complaints about the election if I could. If anyone was precluded --

MR. BELL: I don't think he was characterizing a complaint Mr. Sigler. His observations--

MR. SIGLER: Observations, I'm sorry.

THE COMMISSIONER: THe election was fair and square.

MR. SIGLER: Right.

THE COMMISSIONER: And no one disputes that, I gather.

MR. SIGLER: You're not saying any one was precluded from running or voting in the election because of their racial origin?

A No, I don't think we're saying that.

Q Now you've said what the population of Smith is. Do you know what the number of

people there were on the voting list for that election?

A In the neighborhood of 900 to a thousand on the eligible voter's list, I think it's called.

Q If I were to tell you that the figure was 800 that was on the voting list for that election would you agree that that would be the right figure?

A It would probably be in that area, yes.

Q And that a total of 500 people actually voted in the election?

A I'd give you that.

Q Would you agree that of the people on the voting list that it would break down the same way as the population, say 60 percent Dene and 40 percent white?

A I'm not too sure about that part of it because the native population when you're talking about the overall population, men, women and children are included and the native people, families are much larger than the average white family in the community.

Q Right, so because of the larger families, --

A There's more children.

Q Now, in your evidence you alluded I believe that a lot of the native people didn't vote or didn't know to get out to vote. How can you say that? How do you know how many natives

voted as opposed to how many non-native voted?

A Well, for one thing, there was the people -- the native people including myself who had vehicles were asked by different people to provide transportation for these native people who lived especially in the outskirts of the community to bring them to the polling stations and I was involved all day. The whole day of the election bringing people to the polls so I know the -- I know of the comments that people had made when we had asked them to come out and vote for the town council and take part in it.

Let me point out that if we didn't have this transportation to bring people to the polls, a great majority of them wouldn't even have gone to the polls. It was with our encouragement, and well that we brought these people to the polls to get them to vote, but I will say that a good part of them -- a good percentage of the population would not have voted if we had not went to pick them up to bring them to the polling stations and would not have taken part in that election.

Q So you can see from your work then right on the election day that a large number of the native people just didn't really understand.

A Didn't understand the system and weren't sure about the voting procedures or anything. Like Mr. Cheezie pointed out in his brief the last time that we were here, on the ballot, you're supposed to put four X's for the counsellors and in many cases, only one X was put on the ballot.

Q How do you know what any individual put on their ballot?

A What's this?

Q How do you know what any individual put on their ballot?

A What --

Q How do you know what somebody marked on their ballot?

A Well, I don't know where they put their mark, but there was a good portion of the population that when we asked them later, because this became evident, that they said that this you know this one person that they voted for and --

WITNESS CHEEZIE: I can answer that.

Q Certainly.

A I was directly involved with this because we're getting translators to explain to people how to vote and they brought people out in the polling station and explained to them -- I tried to explain to these translators the system and how to carry on an explanation to the other native people. They told him, well, they didn't know themselves. These translators we had didn't know anything about the voting system itself and we had to explain that to them and when they explained it to the other people that were trying vote, they didn't even know the explanation got so muddled up they had to go with these people right to the polling station and say, "This is where you have to got to put the X's".

The people that were sitting there the returning officers or whoever they were, said that was illegal and it was at the point that some of the candidates said, if we lost or something we were going to take this to Court because they had people right inside the polling station with the person marking the X's and that it was supposed to be illegal.

We talked to people after that and even my own mother. I explained to her how to vote and said "you have four votes and you could vote for the people that you want in to represent you on the council", and she only put down one X and she voted for -- it's only for the mayor.

So you know that tells me right away that that's been the case over and over again with a lot of the other people, even with people like my older brothers, which I explained that to them too, and it's the same case, they told me that again, and the reason how we know that there has been only one X on there was because George here participated in counting the ballots to find out how many votes each person gets, and all the ones that had one X were destroyed ballots. That's how we know. There's no way that an educated, an educated white person would go up and put only one X there because he's readily knowledgeable of that kind of system.

Q The people running the election for the town didn't have any interpreters available at the polling station.

A No.

Q That was up to your Association, you volunteered to provide them.

WITNESS KURSZEWSKI:

A That's right.

Q And the instructions to the voters were all in English is what you're saying too, there was no instruction to voters written in -- set out in the native languages.

A No, there wasn't.

Q How do you account for Mr. Bird doing so well at the polls? Would that be because he must have got a large segment of the non-native vote, would you say?

A Yes, I believe that's the

reason.

Q Now, I wanted to ask you if, say at the next elections there, next year, you're stuck with the system that's there now under the Municipal Ordinance, do you think if you tried again your efforts might be more successful, that the people may have learned from what you tried to do in 1975 so that you might have more success in the next election?

A Well, like I said before, this system has been, has existed in the community for about ten years now and people have never taken part in it and have never associated themselves with that system, and have never associated their beliefs on how to decide their own future with that type of structure, and for ten years now that hasn't happened and they have not wanted to take part in it because it's a foreign system and because they don't understand it, and as we see it, and it's becoming more and more evident that people are just not going to take part in that system because it's not theirs, and are expressing a wish right now to develop their own and for their right to be recognized to develop their own. This is going on right now. People are talking about the type of system that they would want to develop as their own instead of having to take part in a structure that they don't have any understanding about.

Q So you are saying that would be the best thing for anyone to concentrate on, would be having the community itself develop a new system rather than trying to keep trying to educate them to

the system that has been imposed.

A This is the indication that we're getting from the people, especially now since that election project has been carried out, people have told myself and Gerry that, you know, this type of thing isn't going to work and it's been proven to us especially with that last year's Town Council election.

Q If in that election of '75, if the people, the native people, say, had been elected to council, say to form a majority of the Town Council, are you confident that they would be able to do something using the Town Council with its powers to do something for the native people in the community? What did you foresee as the role that they could have played, say, if they had formed the majority on the Town Council of Fort Smith?

A Well, in order for them to have formed a majority on the Town Council, I think there would have had to have been a lot more understanding of the system that the people were voting on first of all by the people, by the voters, and in the past ten years it's been shown to us that that, even for ten years now that it has existed there, they just still don't understand the system and haven't learned anything about it, and don't understand it even today as much as ten years ago when it was introduced. So I don't know if I could --

Q Maybe I'll ask the question again and make it to the panel, if I could.

THE COMMISSIONER: Excuse me.

Mr. Bean wanted to add something.

MR. SIGLER: O.K.

WITNESS BEAN: Yes, I was just going to say that from my experience even in councils where there is, say they're all native except for one councillor, the fact that the system under which the council operates is one that non-natives are more familiar with than the native people, and with the best of intentions the non-native people can easily dominate and manipulate the council. So that I think searching for whether or not it's a majority is a bit of a false issue.

Q That was what you mentioned in fact in your paper.

A Yes.

Q What your experience had been. I was going to ask the panel --

THE COMMISSIONER: Excuse me, Mr. Cheezie wanted to add something. Sorry.

WITNESS CHEEZIE: I've had some experience with that kind of a question too. Fort Resolution has a large percentage of native people there and they have a Settlement Council which is predominantly native, but year after year, every time after they have a settlement election, the settlement chairman is always a white person and he's always the white person that's from the community there, and they've always been giving the responsibility to the white person because he knows a lot more, and that's the kind of thing they're familiar with. Native people have been brought up with

the idea that they don't know anything about this, and they don't know anything about it. That's not a system which they are familiar with, and that's how we know. The settlement chairman there is one of the merchants in town and the other people that participate in this system, even though they're on the council, even though they have committees and everything, they're always in the position of saying, "I agree with it," but not in a position where they're allowed to make decisions. Even though they're a majority on there, it still wouldn't make any difference to them at all, because they're not understanding the process which is happening. They're involved in a preliminary thing of saying, "O.K., who are we going to choose to head this committee?"

As soon as that comes up, there is no way that a native person that's even on the council can assume that position because right away like the kind of things that he's going to be involved with, once he rises to thatlevel of government that he is allowed to assume all kinds of different responsibilities, and he's not familiar with those kind of things and assuming things like that, then it's quite, you know, reasonable to understand that the native people participating in that kind of system will never rise above anything but a "yes" man level.

MR. SIGLER: Q What I wanted to get at was if we, forgetting for a moment the election and the trouble you encountered with the actual election process, looking at the Municipal Council as a form of

a model, say, for local government, this Inquiry's heard evidence of land claim settlements in other parts of Canada that have set up corporations as a model for the local control. I wonder if the panel would care to comment on the suitability of the Mu nicipal Council with legislative control, legislative authority as well as ownership qualities of any other corporation and still having a collective element, as being an appropriate model for the -- for a new system of local control throughout the Territories, using the Municipal Council model. I say not getting hung up on the election procedures of how people get on the council, but the elements that a Municipal Council have as being a model to be used in a land claim settlement, say, as involved in a degree of political independence or self-determination.

WITNESS BEAN: On a couple of points that I would make, and I can't comment on what would be appropriate for a Dene system after land claims, but the term "municipal model" is really broad and it depends, you know, what specifically that means. I would see a need for that level of government, a structure at that level, certainly; but the other part is to confuse the structure with the process. I don't think in just looking at the structure of the present model or the structure of other municipal models really gets to the dilemma that the Dene people are caught in, and that's the process of developing their own institutions. I can't say what they'll develop, but they may develop structures that are not terribly dissimilar from what exists now. But the fact that they

have developed them and they've come out of their own traditions would make all of the difference.

WITNESS KURSZEWSKI: Yes, I was getting confused by your question about the municipal model in using that. I'm not sure exactly what you meant. All I can say is the municipal model or the municipal structure that exists now, especially in the community that I'm familiar with, has you know, it's been proven to us that people just do not relate themselves to that and have expressed a desire to develop their own, and through the land claims are asking for the right to develop their own, to be recognized. It's pretty clear to me. I'm not sure what you're trying to get at.

Q I guess I was trying to get at whether you thought the authorities that are -- the powers that are given to a Municipal Council are the same or quite similar, do they not contain the elements of what the local bands are seeking in a land claims settlement?

WITNESS CHEEZIE:

A Can I answer that? Well, if you're talking about, if what you're asking is to me anyway, what it seems to me you're asking is that do the same kind of fundamental things that the Town Council operate in would be the same kind of system that the Dene people would follow along when they present their land claims proposal? I don't think it would be. Like the idea would be to develop a process which would be -- give the Dene people certain responsibilities which they don't have now, like that's what the whole fundamental element, maybe that's what they're talking

about, like that responsibility whether who has the control over it is the central issue here, and it's not that we follow along the exact guidelines that the Town Council operates on now and there's no way, I don't think, that we would accept that kind of a thing because if we just paint it a different color it doesn't mean that we accept it.

Q So that perhaps the impression I got from your evidence which I guess is wrong that if the native candidates had been successful in gaining control through the Town of Fort Smith's Town Council, the hope was there that if that had happened that they might have had control over their own community affairs.

A Yes, that was the ideal that we were trying strive for, but there's no way that we could achieve that unless we had a system which the people were familiar with. We were sort of groping in the dark and hoping for we'd come out on top.

Q Well, I'd to ask the panel what kind of system they're advocating for communities such as Fort Smith?

WITNESS KURSZEWSKI: Number one, a system that is developed by the people of that community.

Q Does that include all the people of the community?

A Well, first of all I think we have to realize that native people have certain rights that have to be respected and until there's an agreement reached on those rights, all questions can't be answered right now as to you know, -- you can't set any qualifications of any kind or anything until the people's right to develop their own system first of all is recognized and then it's their process or they would then have the right to develop a type of system

that they would feel would meet their own needs.

Q I guess my question is that for communities that say already have a large segment of non-native populations as well you know a fairly even mixture of native and non-native populations, and that's the minority of the communities in the Northwest Territories, but for those communities does the panel consider it possible to establish a system that will be able to serve both elements; the native and non-native working together. Or do they -- Well, do you think it's possible to establish a system that will serve both for those types of communities?

A I'm not sure what you're getting at there. You're saying that all -- the whole community regardless of whether that they're native or non-native should be included in the land claims settlement process. Is that -- I don't see what you're getting at.

Q say apart from the land claims settlement process of which say goes on and you know, involving only native people as it should as the known people that were making the claim entitled to say. But for those communities that now are not exclusively non-native, is it possible, do you think to work out a system of government that would include both the native and non-native residents of that community? Or do you think that by necessity the native people will have to have their own system of local government that would be separate from the system of local government used by non-native people? Or do

you think there should be non-native people in those communities?

A I think it's possible once native people have developed their own structure first of all to, in the way that they see themselves being organized or whatever. First of all the native people I think should be able to develop their own system and then from there, once the people have set up the system that is designed to meet their own needs is set up, well then from there, I mean the involvement of residents from southern Canada will have to be you know decided by the people and maybe through negotiations or whatever worked out with the people who have moved from the south.

But, I think the first step is that the native people have to be able to -- or their right to develop their own system according to their own needs has to be recognized and once that process has been developed by the people, designing their own system, well then I think you know it could come out -- I can't predict anything about the type of structure that people will set up but the first -- I think the first thing that has to be recognized is that the Dene people have a right to develop their own system according to their own needs and then the inclusion of southern residents will have to follow I believe.

But that will have to be worked out. I can't tell you what --

Q I take it the Chief, from his evidence on that that during that period when it is

being worked out the town councils that there are now should not be making decisions for the native people that live in the town.

WITNESS CHEEZIE: Well they don't.

Q Well you've stated in your evidence that, I think I'm quoting it, that the Town Council, nine people undermined your authority as a Chief constantly.

A Well that's what I mean. They don't recognize our -- they don't represent our views anyway.

Q Well you've stated that they're undermining your authority constantly.

A That's what I mean by like they don't -- every time I go to see them for any kind of -- anything at all, regarding the kind of things that my people are concerned with if they want to build a house on lot X over here, they say, you've got to build it in such a way that it has all the facilities and everything and the people here they don't even have the means with which to do it with. There's no way that these people can operate like that.

I tell my people, "Go ahead and build it".

Q That's what my statement and would be fair that in the period while you're working out the system that you would want for your people, that the Town Council should not be telling your people what to do, you would say.

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WITNESS KURSZEWSKI: I would say that. That the Town Council should not be making decisions for the Dene population and you know we've been saying this all along, that these people don't have the right to decide the Dene people's future.

Q Now --

THE COMMISSIONER: Excuse me Mr. Sigler. I certainly don't want to cut you off because I think the answers we're getting are worthwhile but I think Mr. Bell indicated last week, perhaps on the day when you weren't here that the Brotherhood and the Metis Association will try later in Phase Four to present a panel on the land claims and the political and economic organization that they envisage.

Now, this wasn't a presentation nor did we ask that it be a presentation of the land claim, but, to give us some indication of the broad configuration of any proposed land claims settlement.

I know we're asking you to do that and I thought you may or may not have agreed to do it but that's what I was hoping you would do at some stage, and witnesses from the Brotherhood called for that very purpose would discuss it.

One day merges into another and I hope I -- it isn't all fuzzy in my mind, but if something like that could be done I think it would be helpful.

MR. BELL: Sir, what I think I said was just to -- what I think I said was that it was our present intention to call a

of
panel/witnesses to deal with the major considerations that would be of concern in the land claim.

THE COMMMISSIONER: That's right. You've set to deal with the considerations that the Brotherhood and the Metis Association will be working through in developing the land claims settlement. Yes. You've put it that way. That's right.

Well, carry on. I'm just simply saying that that -- that Mr. Kurszewski and Mr. Cheezie, though they are both helpful to us, can't be expected to sort out the whole land claims question for us this afternoon.

MR. BELL: That's right sir.

MR. SIGLER: My main question sir is --

MR. STEEVES: Could I just -- I think the matter that you touched on in discussion with Mr. Bell the other day and his reply and again the discussion today is of vital importance to a matter you raised at the very onset of this Inquiry, and that was that you asked Foothills -- I'm sorry, Arctic Gas and later Foothills to meet and grapple with the issue. Can their projects proceed without prejuidice to the claims?

Now, I understood my learned friend to say the other day that he, in response to a question that you asked sir, that he couldn't agree that the claim or demand of the groups he represented would ever be put before this Inquiry but that he thought that perhaps some of the considerations, which I

take it he meant should be taken into account might be put before the Inquiry. Now, this -- I suggest sir, there's a very vital and important difference and I just want to say I understood to say "no, I'm not going to put the claim or demand before you".

THE COMMISSIONER: Well, I think Mr. Bell put it very well just now. Yes, he did say "no" in a polite way but he said the --

MR. STEEVES: I'm sorry, I didn't mean to imply he was impolite.

MR. SIGLER: In any event sir, my question is all relevant to the land claim questions, but my aim is only to see what recommendations these witnesses have that relate to local government, particularly with the example they gave of Fort Smith and what recommendations they might have for the form of local government in the communities rather than to the overall question of the land claim.

It is, as well, of importance to my client.

THE COMMISSIONER: Right and look, you're doing very well Mr. Sigler. The trouble is that everything seems to be connected to everything else.

MR. SIGLER: Right.

THE COMMISSIONER: And that's the problem. If you want to confer for a moment you're certainly welcome.

Could I ask a question of you Mr. Bell and Mr. Goudge? After this panel has been cross-examined, are there any further witnesses today?

I see the Yukoners are around and about. Are they starting today or tomorrow, or what's --

MR. GOUDGE: They're to begin, subject to what you may say, sir, the first thing in the morning. Mr. Bell, I understand, has one more witness whom he would like to call today, if possible. I think the evidence in chief is 15 or 20 pages and cross-examination hopefully could be concluded today, but perhaps we can see how we get along.

THE COMMISSIONER: Well, let's just take a short break. I don't want you to commit yourself to anything you can't. You certainly haven't committed yourself to very much so far, but if you think you can confer with your advisors for a minute or two, we'll stretch our legs.

(PROCEEDINGS ADJOURNED)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: All right. Did you want to add anything, Mr. Bell?

MR. BELL: Yes, I'd just like to say a few words, sir. I think that if I could just refer back to the opening remarks I made when at the beginning of Phase 4 I said that we will be urging this Inquiry to recommend that there be no right-of-way permit granted until land claims have been settled. Accordingly the evidence of each and every witness that we call is intended to address the issue of prejudice to a land claims settlement, and I think that the evidence that we have called so far has directly

related to that issue in many areas, not just property rights, a s some may still think that the land claim is merely about property rights; the land claim, as I understand it, is about a process and it's prejudice to that process that we're talking about. As you said, sir, all of these things seem to be related and they are, because they're all part of the process.

Mr. Simpson spoke at length about the process that would be prejudice; Mr. Kurszewski in this panel and other panels also discussed the process of decision-making of the process leading to self-determination for the Dene people which we feel would be prejudiced by a land claim. I think it would be wrong to assume that we're going to present a panel which will somehow deal solely with the question of prejudice because all of our witnesses deal with the question of prejudice, and I might point out that probably Mr. Kurszewski or Mr. Cheezie, or perhaps both of them, there's a good possibility that they would appear on the panel that we've been discussing which would outline the broad considerations that go into a land claim settlement. So I don't particularly have feelings one way or the other, if counsel want to discuss what Mr. Kurszewski or what Mr. Cheezie see as the main elements of a land claim. It's entirely up to you, sir, the degree that you want to go into that, but I think it should be seen that all of our witnesses are dealing with this issue of prejudice to a land claims settlement. I think that expresses my thoughts on the matter.

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THE COMMISSIONER: Do you want to say something,Mr. Steeves?

MR. STEEVES: The task of ARctic Gas is made an impossible one if we don't know the allegations that we have to meet, and I have the transcript of the discussion between you, sir, and Mr. Bell the other day, it's at page 22611, and I think perhaps with respect you were speaking there about what you had in mind when you posed the issue at the opening of this Inquiry, and the discussion arose during the cross-examination of Miss Nahanni by Mr. Scott, and Mr. Bell said this:

> "Yes, I would say we are going to be calling a panel of witnesses which I believe I mentioned earlier, in Phase 4 who will be able to answer your question with more particularity, give you a better estimate perhaps of the timing involved,"

And you said this,

> "I'm rather more interested in the fleshing out of the claim, that is generally known as the Dene land claim rather in knowing when and in what given date you might be in a position to present it to the Cabinet. That's not something that concerns me. Mr. Scott has raised a legitimate concern to the Inquiry, and that is to determine the question of prejudice. We have heard a lot of evidence and I have it all in mind. I am not suggesting that it isn't vital and important evidence. The evidence we've heard in the villages, but bearing in mind Mr. Scott's

request, if that panel you have mentioned that is coming up later can flesh out the extent of the land claim, the rights the Dene would seek to assert for themselves, in terms of governing themselves, in terms of the determination of what economic development might occur on the land, that kind of thing, I think that would be helpful to the Inquiry and at least to me."

Then Mr. Bell said this:

"Well, I don't know whether we will be able to present before the Inquiry before it ends a fully fleshed-out proposal. We might be able to present some of the considerations that are being taken into account, and I think that's about all I can say about it until we have a panel which is able to speak to this."

Now I want to make it very clear, sir, that the position Arctic Gas is in, is that if we don't know what we have to meet, then I don't see how we can meet it. That's the position I see myself left in as a result of that discussion between yourself and Mr. Bell the other day. I refer to the issue of prejudice, of course.

MR. HOLLINGWORTH: I concur in those remarks, sir.

MR. BELL: Well, I think, we're talking at cross-purposes then.

THE COMMISSIONER: You say that your evidence so far has consistently addressed the issue of prejudice. They say no, they are not in a

position to grapple with it unless the land claim and the political and economic organization that the Dene envisage is adumbrated rather more fully than it has been so far. Now that's the problem and let me think about that and let us all think about it and see how we're getting along here. I can see the point that both sides have made. You're concerned about a land claim and erecting a social and political and economic organization that will better serve the Dene people than the present arrangements do. They're concerned about building a pipeline. That's what they want to do, so we have to see if we can make sure you're engaged, at least that you confront these issues and I understand that you say you are confronting them, that all of this evidence confronts those issues. They say it doesn't.

MR. BELL: Well, if I could perhaps just add one remark, if I could direct my friend's attention to the evidence of Mr. Bean at page 21 of the section entitled:

"A pipeline and political institutions,"

I think that that section deals largely, almost exclusively, I would say, with the question of prejudice that the construction of a pipeline would have on political institutions, and the political process, the decision-making process; and admittedly Mr. Bean can't say what the answer is, what political institutions the Dene will come up with, but I think the point again sir, it is the process that we're talking about, that is the essence of the land claim, and it's prejudice to that process that is the essence of our

submissions to you.

THE COMMISSIONER: Well, we're all doing our best to grapple with this, and it isn't easy for anyone, and if there had been an Inquiry on this very subject five years ago in some other part of Canada we could have said, "Well, that's how they handled it." But we can't do that and so we have to do the best we can.

Well, Mr. Sigler, I think we'll go back to you now and see what else you want to discuss with them.

MR. SIGLER: Yes sir. My concern in questioning this panel was that my client in his evidence will be suggesting an increased involvement by Municipal Governments in the affairs that might go on concerning a pipeline construction phase, and this panel is pointing out to the Inquiry certain criticisms or weaknesses they see in the present system, fundamental ones, and I think it's only fair that the Inquiry has this before it when it considers the points that my client will be making.

So that's the reason behind my line of questioning, not to go into land claims directly but only from the point of view of my client.

THE COMMISSIONER: All right.

MR. BELL: Excuse me, sir, I don't know whether the coffee is ready or not -

THE COMMISSIONER: The coffee is ready.

MR. SIGLER: I won't be too

much longer.

THE COMMISSIONER: Well, you ask a few more questions and if we can't take it any longer we will leave for coffee.

MR. SIGLER: I see everyone has left the room so I've quit asking them.

Q I'd like to ask Mr. Bean if he sees the southern municipal model as an appropriate model of local government for non-native communities such as Pine Point, which is a mining town and is entirely a non-native community, or do you see weaknesses in applying that southern model to northern white communities as well?

WITNESS BEAN: Yes, I see some weaknesses in the southern municipal model even in the south, as I think people in the south are not necessarily holding it up as the ultimate in municipal government. I'm not really familiar with the situation but I know in Ontario, for instance, there's been a lot of attempts to revise the municipal structures of government and the municipal process of government there. Is that specific enough? It's not a very direct answer, but --

Q The point is then that you commented on the philosophy paper that was ignored by the Territorial Council that your criticism or comments in that regard would be general ones, that the Territorial Council has refused to look at revising their form of Municipal Government here.

A Right.

Q And that certain changes should be considered for all communities here?

A Yes, certainly. Yes, I'm not saying that present form is the best for Pine Point or Norman Wells or whereever. I think the whole municipal structure within the north could stand some serious re-examination.

Q Were you yourself involved in writing the philosophy paper?

A Only indirectly. I was involved in some the community meetings. I was involved in some of the meetings which tried to draw all of the evidence together and outline it. I wasn't involved in writing it specifically, no.

Q You've got at page 14 and 15 of your paper, --

A Is this the evidence or the --

Q Yes, the evidence. I'm sorry, not the other paper but your evidence. You've got a quote that starts at the bottom of page 14 and goes on to page 15 stating the reasoning for setting up the structure of municipal councils in the Northwest Territories.

I wonder if you could tell the Inquiry where that quote is from?

A That in fact is not a quote. It's set up by the typist as if it were but it's not a quote.

Q It's in quotation marks at the beginning and end.

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A No it doesn't.

Q Oh, it's just the "we're all northerners"part that's the quotation.

A Yes, yes and that simply meant --

Q So those are your own views there.

A Yes, yes, yes.

Q Do you know of any government documents or anything that could confirm this view of yours that you might have quoted in support of those statements?

A Not specifically but confirmation would come from for example, Mr. Flynn's article that I quoted earlier and just general conversation with civil servants within the Territorial administration.

It seems that in my early experience in the north, people were somewhat unabashed about admitting that Ottawa had set that criteria, that local government should be established before further powers would be transferred.

Q So those are your own impressions from the work you've done within the Department in talking to other people within the Department?

A Yes, I would say they're more than impressions there; that was the thinking within the Territorial Government.

Q And you also referred in

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your paper and appended to it a copy of the letter from the Commissioner to the Minister dated October 8th, '71 that sets out a certain attitude on behalf of the Commissioner towards the local people in the north.

Where did you get that letter from?

A Are you willing to accept the letter as part of the evidence or --

MR. BELL: I think sir Commission counsel has been asked to write the Commissioner as to whether --

THE COMMISSIONER: What did Mr. Scott say?

MR. GOUDGE: He undertook to write sir, I think, to the Commissioner and delve into the matter that way.

MR. HOLLINGWORTH: Yes, it was dealt with in an odd way sir. It was accepted subject to disproof as I understand it.

In other words if the Commissioner wrote back and said "certainly it wasn't my letter," the thing would be struck from the exhibit list. In the meantime, it was made an exhibit as I understand it.

THE COMMISSIONER: It was a part of --

MR. GOUDGE: It was a part of his paper sir as I understood it.

MR. BELL: Well I think sir until such time as we've received confirmation or denial from the Commissioner then Mr. Bean ought not to be

required to disclose where he got the letter from.

MR. SIGLER: I thought he might be helpful to the Inquiry in establishing that, in that he's the one that did bring it to the Inquiry.

A Can I talk to my counsel on that?

THE COMMISSIONER: Do you want to pursue the matter now.

A If it's an issue, I'm willing to follow it.

MR. SIGLER: No if you don't want -- if you don 't wish to disclose it then I certainly won't try to force you to --

MR. BELL: If it is a letter that the Commissioner wrote then does it really matter where Mr. Bean got it, and if it isn't then --

THE COMMISSIONER: I had lunch with the Commissioner maybe I should have asked him.

MR. SIGLER: Well how long Mr. Bean have you worked for the Department of Local Government?

A How long?

Q Yes.

A Since -- I'd have to it look it up in my -- that would be whenever I left Coppermine. I was with the Executive until I left Coppermine which was '71 I guess, '72. '73 until a year ago.

Q For approximately two years?

A Yes.

As you're aware probably the setup within the Territorial Government is that when field officers were doing primarily Local Government kind of work but were hired by the Executive, so when I was a settlement manager my main involvement was in the establishment of the Local Government Program but I was not officially with the Department.

Q Mr. Bean, do you see as a solution for communities that have both a native and non-native populations, see as a solution separate types of councils or for each element of the community, or do you see there being a possibility for a system that can make decisions for the whole community?

A I'd be speaking purely in a personal capacity of what --

Q That's why you're here as a witness for us.

A Yes.

THE COMMISSIONER: You tell us how you feel about that?

A My feeling is that it would be quite possible to evolve a system where both native and non-native people could participate through the same system. There wouldn't be any need for an apartheid or a reserve kind of setup. The fundamental consideration would be the right of the Dene people to establish their system and that people like yourself and myself who come up here would then fit into that system as opposed to bringing our system with us and

having the Dene fit into it.

MR. SIGLER: But it would be a new type of system that --

A Yes.

Q Rather than the one of the existing institutions.

A Right. Right.

THE COMMISSIONER: Does the proposal made by the Inuit presented to the Cabinet about a month ago have any proposals for the establishment of local government? I know they have a proposal for -- if you don't --

A I'm not an expert in that field at all --

Q Well, we'll just leave it then.

A Yes.

Q Mr. Bayly I think is presenting a panel on that subject so let's worry about it when the time comes.

Well, maybe we should --

MR. SIGLER: Those are all the questions I have sir.

(PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: All right, Mr. Hollingworth.

MR. HOLLINGWORTH: Thank you, sir.

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q Mr. Bean, would you turn to page 19 of your testimony, please?

WITNESS BEAN: Page 19?

Q 19, yes. At the bottom of that page you might clarify this for me, you start off the paragraph saying:

> "The territorial administration has an interest in maintaining and enhancing its control over the Dene and their land."

Is that because you see them as a self-perpetuating bureaucracy who want to maintain that bureaucracy? Is that the reason for them having an interest in maintaining control?

A That's a part of it. The other is that given the nature of responsibilities that the territorial administration has, it does not have responsibilities over the natural resources, for instance, in the north. It simply has responsibilities in the area of the people of the north. So that it has a direct interest in the control of the Dene as a people. It's not simply to self-perpetuate itself, it would lose a massive amount of its area of authority if it didn't have control over the Dene.

Q There would be nothing left or very little left if they--

A Very little, yes.

Q O.K., and on page 21 then you can just go through your point . As I understand it, you're saying this. The pipeline would support the colonizing process of the Dene people, and the first instance you give is that Settlement Councils in every community have created a form where non-Dene very quickly take over, can very quickly take over the political life of the Dene community, and you foresee that being a danger if the pipeline proceeded.

A Right.

Q So it's implicit then that you're assuming people will move into the Dene communities all down the Mackenzie Valley from outside.

A Right.

Q Not just into Yellowknife, Fort Simpson, and Inuvik, but into all the other communities as well.

A I would see it, yes the people will move into the smaller communities as well.

Q Upon what do you base that assumption?

A The one example that I gave was that in Coppermine, for instance, when there had been more cash flow into that community, there had been entrepreneurs who went into that community to set up small businesses.

Q Excuse me, were these

new people moving into Coppermine to do this, do you know?

A As I understand it, they were people who had lived in Coppermine previously and came back to the community when the cash flow increased.

Q Came back from where, do you know?

A From the south.

Q All right, and you were told this by somebody.

A Right.

Q Who told you?

A Colin Adjin told me.

Q What was that name?

A Colin Adjin.

Q All right.

THE COMMISSIONER: He was a witness, as a matter of fact, in Inuvik.

MR. HOLLINGWORTH: I wasn't there.

THE COMMISSIONER: He spoke about the Gulf employment plan at Coppermine.

MR. HOLLINGWORTH: All right now, are you basing that assumption that people will move into Dene communities on anything else other than the Coppermine experience?

A Yes, over the past couple of years down the river as seismic crews or what-not go through the country, there is people that come in, get exposed to the north, sort of like it, and want to

stay around, get interested in a community and move to that community. For example --

I'm not sure how specific I want to get because in the north there's not a lot of people around and they cease to be anonymous, you know. But in the river communities there are examples of individuals who, within the last year or two, have moved in, who have sort have been brought with the amount of development that presently exists.

Q And have they gotten themselves onto Settlement Councils?

A They're certainly involved in the political life of the community. I'm not aware that they have as yet got themselves on Settlement Councils.

Q Well, even if they haven't got themselves on the Settlement Councils, I take it that the prejudice would be that this trend you see would increase, and you see that as a prejudice to throwing out the existing system and bringing in a new one.

A Yes, it would entrench the existing system.

Q Because your partners on your panel here have indicated the situation is undesirable at least to them in Fort Smith. Now you've already got that situation without a pipeline, but you're saying that prejudice would ensue because of the situation being increased.

A Increased because of the

spinoffs of increased people that would simply get north because of that kind of development activity.

Q So that while with the present level of participation by non-Dene, you feel that it would be possible to replace the existing system with a Dene struc tured system. It wouldn't be possible if you kept up this influx of non-native ways. Is that your evidence?

A It would be much, much more difficult, yes. That 's in terms of that single way in which the pipeline would affect the political institutions but then you get into the area that Mr. Sigler was raising of the rights of the non-native people within the community, and communities that are presently assumed to be native communities, where an evolution of a Dene system could take place relatively easy, it would be much more difficult if it became an enclave of non-natives who felt that that process was going to threaten their rights in that community.

Q And are you relying on any particular theory aside from Newton's to back you up on this? Is this the basis of your experience or what?

A For --

Q For saying that it would be more difficult if you got more participation by non-natives in the present system, then it would be more difficult to throw out and replace with a Dene system.

A Well, the assumption is that it's the Dene that are going to evolve the system. You know, if you're willing to assume the whites are

not going to take any part and have no rights in the political life of that community, then the thing may change; but I am saying that from my experience people coming into the community very often with the best of intentions want to take part in the political life of that community, they do become a factor, they do have a tendency to put forward their own ideas of what should exist in that community and consequently make it more difficult for the Dene to come to grips with what they want.

Q Yes, I understand that, sir. Your premise is that you've got an existing system which non-natives understand more easily and they can therefore move in and exercise more influence or exercise influence beyond their numbers, with the present system. You're also going further and saying if you got more participation, more non-natives, that it would be that much harder to dislodge the present system and put in a new one, no matter what the new system was.

A M-hm.

Q Now your second objection concerns the tax base of private property, as I see it.

A M-hm.

Q And you say that the property tax system is foreign to the Dene, and first of all you're critical of the applicant for proposing no other mechanism for community improvements. You feel it's encumbent upon pipeline applicants to deal with the tax structure of communities, do you?

A I would say I'm not being critical, I'm simply pointing out that involved in the proposal, whether it be by the applicants or in the government, any knowledge I have of government intentions around it, there's no alternate proposals being proposed.

Q All right.

THE COMMISSIONER: What page are you on?

MR. HOLLINGWORTH: This is on page 24, sir.

Q If a pipeline proceeded, how do you see prejudice arising because of the perpetuation of the property tax system? Isn't it pretty well entrenched now?

A No, not in the smaller communities.

Q Well, are you aware of any pipeline participation that's going to take place in the smaller communities?

A Well, you get to a situation where there will be the effect that I mentioned earlier of people moving in, possibly starting businesses. As I understand it, the policy of the territorial administration is that once the taxable revenue from a community becomes profitable to collect, they start collecting it. So it could mean the initiation of a tax base in the communities that don't presently have that.

Q And again you feel that once the system is entrenched you're not going to be

able to get rid of it as easily or at all.

A Right, yes.

Q And do you have anything to support that theory?

A That once a system is entrenched it's more difficult to get rid of?

Q Yes, except your knowledge of human nature.

A It seems to be somewhat of etiology to me.

Q All right.

THE COMMISSIONER: What you nail the first board to.

A Yes.

Q The property tax system as we know it in the south isn't entrenched in the communities, well it's virtually non-existent except in Inuvik, Yellowknife, Hay River and Fort Smith. Is it meaningful in places like Pine Point? Do people own their homes there?

A I'm really not that familiar with Pine Point.

MR. HOLLINGWORTH: I understand the company maintains most of those houses.

THE COMMISSIONER: Well, you're not suggesting the property tax system to maintain municipal services as we understand it in the south is only meaningful here in the north in say Yellowknife, Fort Smith, Hay River, Inuvik and perhaps to a lesser extent, Fort Simpson, and conceivably Norman Wells.

That's about all, isn't it? Not that that's not -- you see, in Inuvik, there are probably only 100 people who actually own their homes and pay taxes in the usual way.

A . I'm not sure of the specific settlements involved, but I know that the general policy of the territorial administration is to carry out whatever it is that they do when they try to assess the taxes in a community, and that as a community develops to the point that they feel the net effect is profit from going to the trouble of getting the taxes, they set it up on a tax base. For instance, Aklavik and Tuk, I believe, have been assessed property tax but they haven't yet decided -- and I stand to be corrected on the specific settlements, but they haven't yet decided whether or not to initiate the system.

So that under the present territorial administration system as a community would grow and if businesses did start, the tax base would likely be instituted into communities where it doesn't presently exist.

MR. HOLLINGWORTH: Tell me this sir, wouldn't it be possible to change the municipal tax structure so that in fact, the municipal tax in the Territories was abolished and you had a direct system of grants from the Territorial Government to the communities until such time as some new system took over? It's conceivable to have that, isn't it?

A It's conceivable. All kinds of things are conceivable.

Q I'm sorry, I can't hear very well.

A I said all kinds of things are conceivable.

Q Sure.

A -- in the process of getting it, it might be somewhat difficult.

Q Sure. Now, your third point is that you see increased problems created by a pipeline and this will require the Dene to become further dependent on non-Dene experts who are familiar with the imposed system. I take it you're referring to people like yourself?

A Yes.

Q All right and you see that the more of those people that are advising the Dene, the more entrenched it becomes and again the less able the Dene will be to turf out the existing system and bring in their own.

A Yes, it's also a distinction

between the role that experts play when it is an imposed system. For instance, when I was working with the Territorial Government I would go into a community where there was a Settlement Council and ironically, I was the expert in that system. I knew what was "right and wrong" in that system and people were dependent on me because I had the answers.

Q You knew what was in the book.

A I knew what was in the book, yes, in terms of the municipal ordinance or in terms of what government policy would allow in that community.

Q All right and the fourth problem I suggest is interrelated to the third in that you see the government also growing as the result of increased problems and becoming more entrenched again.

A Yes.

Q All right.

A Yes, given that -- well, I'm making the assumption that I assume you are that we're assuming that it's a colonial kind of government, so an increase in a colonizing government has a different kind of effect than an increase in simply a bureaucracy in terms of those components --

Q I wasn't assuming that, no.

A I thought I'd check that out.

Q Is it a necessary distinction

you feel?

A Yes. I mean an increase in a bureaucracy does not have the kind of social implications for a group of people who it serves as an increase in a colonial system that has a colonial relationship with those that it's colonizing.

An increase in the Department of Health and Welfare in the south might not be necessarily bad. An increase in the Territorial administration in the north which is essentially a colonial institution is not going to help the Dene people get their political freedom.

Q Well that's putting it in the negative though sir. You're saying that the increase in this colonial government will necessarily prejudice the Dene in that it will be harder to dislodge? THat was the point you agreed on?

A Who are the agents of colonization in the north over the past ten years?

Q Well you're saying that it's the government.

A Right and it's the civil servants. It's the bureaucrats, so an increase in the number of the agents of that foreign imposed system is obviously going to have a detrimental effect on the Dene.

Q Because it's increasing the size of the bureaucracy or because it's having an effect on the mentality of the Dene, if you like, there? They're feeling more colonized?

A Well, not only the feeling.

I mean there'd just be increased contact. There'd be more civil servants involved in more areas of the life of the Dene.

Q Yes, but why is it going to be more difficult to throw them out than it is at the present time with the present status quo?

A It seems to me at one level to be self-evident, simply in terms of numbers. If you've got a situation in the north where you increase the number of people coming in as Territorial administration bureaucrats, or as government bureaucrats, those people themselves are starting to demand political rights in the future of the north. You set up a situation where the Dene increasingly become a smaller and smaller proportion of the population.

Q All right, so that's really outside the process of government though. That's just the process of more whites coming in than there are Dene being born.

A But it's all part of the same process. I'm not sure --

Q Well all right. ON page 26 then, the first complete paragraph leaves me a bit perplexed. First of all, I can start at the end, you say "they" referring to the pipeline companies:

> "... do not even acknowledge the right of the Dene to exist, self-determining or otherwise."

What exactly do you mean by that? The right to live, the right to breathe?

A No, the right to exist

collectively. The right to exist as a collective --

THE COMMISSIONER: You mean as a distinct people?

A Right, yes. I'm using the term "Dene" here -- I should say that a Dene person criticized me once when I used the term "Dene people" because he said it's redundant. "Dene" means "the people".

MR. HOLLINGWORTH: Right.

A So it's that collectivity as a distinct people.

Q Well, I hope you're not implying that the silence of the applications is a denial of this acknowledge to exist.

A As a collective?

Q Yes.

A I think the implication is there.

Q All right. What about an acknowledgement by a pipeline applicant that Indian or as it says here:

"Indian land claims are acknowledged and it's stated that it's preferable that they be concluded before a pipeline proceeds."

Isn't that an acknowledgement of the right; the collective right?

A Yes, it becomes an acknowledgement if you're saying that the right of the Dene people to their claim takes precedent over the building of any pipeline.

Q Well maybe you know or don't know this. Kelly Gibson is the Chairman of the Board for those pipelines and he was testifying before the National Energy Board proceedings which has since been terminated and started under a new guise --

A Yes.

Q -- and I'd just like to --

THE COMMISSIONER: I don't know whether it's a guise.

(LAUGHTER)

MR. HOLLINGWORTH: Good point. Another attempt at it. Another run at it. He was being questioned by Mr. Goldie the counsel for Arctic Gas and he said on page 2646 and 2647 and I'd like to read it to you. The question is:

"Is that the only indication you have at the present time, this is of delays in construction?"

The answer is:

"That is the only delay that has been admitted to this point."

Question:

"I draw to your attention Mr. Gibson and I ask you as a Foothills witness if that is the only delay to use Mr. Phillip's words..."

and Mr. Phillips is the president of Westcoast Transmission, one of the participants of Foothills;

"... that has been admitted to this point in the timing of construction of Foothills?"

Answer:

"I don't know what he was referring to by saying

'admitted to this point'. I think what I should say, he is pointing out that we are delayed one year maybe by regulatory delay. We might be delayed more than one year by some other reason. There are other things to done before construction can start and one of the main things of course is the Indian land claims. Maybe that is why he says, ' this is the only one that is admitted at this point'". Now would you call that sir, an acknowledgment of the collective right of the Dene?

A Yes, I think so.

Q Yes.

A My evidence has been based on 5-C as well as the Arctic Gas documents -- Gemini North. If your position has significantly changed, then I'm quite willing to acknowledge that.

Q All right and maybe if I could read further on page 2655 and 2656, the question is put:

"And you say, 'They are also aware of the need in eastern Canada. This need must be weighed against the need for time to settle northern affairs'. How do you put any time frame on the time that you will allow for the settlement of the land claims?"

Answer:

"I don't think it is up to us to 'allow'. Whenever we are given the authority to move on the land and we are accepted on the land to build these lines from the native people, we will move on. I think the timing really involves the Federal Government's

getting up and getting out there and getting to work upon it. If they want the line built, they are going to let us. Whoever gets the certificate, get on the land in such a way that we won't be disturbing or upsetting those people whose land we are crossing, anymore than we would go into your home if we are not invited. We are not going to go on the land unless the proper arrangements have been made, more than legal, the proper arrangements." That's the end of the passage.

Now, again, would you say that that was an acknowledgement of the collective right of the Dene?

A Yes, I would see that much more of an acknowledgement than I've been previously aware of.

MR. BELL: I assume that we can rely on these statements now that they're on the records.

THE COMMISSIONER: Well, I'm sure we can.

MR. HOLLINGWORTH: Well sure we can.

THE COMMISSIONER: I might add Mr. Hollingworth, that I read in one of the papers a week or two ago about a speech Mr. Gibson made -- I think it was Mr. Gibson -- somewhere in eastern Canada and he dealt with this whole question of land claims and so on. YOu might file a copy of his speech and I'm sure some of you must have read it. It was widely reported in the

financial pages at least.

MR. HOLLINGWORTH: I'm familiar with one address he made sir to the annual Shareholder's meeting of Westcoast Transmission.

Q Maybe that's it.

MR. HOLLINGWORTH: I'll check into it and let you know.

On page 26 still, you get into certain myths and you say the first myth is the myth that native culture is static and unchanging. Now, can you give me a source for that myth?

A Yes, the idea in bringing out these myths was to try to get to the underlying assumptions that were obviously in the applications but were never directly stated. It was --

Q I'm sorry, did you say application or applications?

A Applications. I used 5-C Gemini North and the Arctic Gas material in trying to make explicit some of the implicit assumptions that were obviously there. So in terms of the myth, first of all just a general comment on 5-C. There is no talk in 5-C that I'm aware of, as, of the Dene as a collective, of their collective rights; the Dene as a people with political rights. There's no acknowledgement of them as a system, a political, economic and social system which would be impacted by massive development.

In the section on contemporary social environment for instance, the headings are:

housing, education, welfare, health, alcohol abuse and crime but there's no heading looking at the contemporary setting. Or there's no talk of the Dene as a system so that obviously, the existence of that system is not perceived in here.

On the chapter on the impact area in retrospect, you go through a historical kind of overview of the north. There's a chapter entitled "section 22, entitled "Synthesis and Integration of Cultures". It contains sections such as "increased and sustained contact with the white man at the trading post; introduce the natives to new technology. They had the necessary economic commodity, fur, to acquire rifles, traps, and more efficient tools. The first phase of their integration into an industrial society has begun."

So, the implication is that industrialization is inevitable and the first phase has happened.

The history goes on and you get into the contemporary social situation which I described with no longer any reference to the Dene as a people. They were simply historical people, in your terms they had been synthesized or integrated into contemporary culture.

Q Well, isn't that open to the interpretation that perhaps that process is under way and has been for some time? Rather than the fact that it is a fait accompli?

A Well, if the process is under way and I would accept the view that yes, it is a colonizing process happening; but then there's no mention of the impact of the Dene system, you know, there's no talk of the Dene as a people and what that process has done to them as a people, what the development of a pipeline will be to them as a people, not just as individuals.

Q All right.

A I can give you some more examples, if you want.

Q If you want to.

A O.K., in the section on education on the contemporary social setting you state:

> "As the north has been changing over the past 30 years from a traditional native society based on hunting and trapping, to an industrial society based on resource exploration and development, so have the needs of native northerners changed with regards to education."

And you state further down:

> "Education has played a significant role in changing the expectations of native northerners. Exposure to a Euro-Canadian value system in the schools and hospitals has affected all natives, though there are degrees of assimilation. The greater the assimilation, the more likely the native students are to stay in school and prepare themselves for skilled wage employment."

So abstracting from that, the underlying kinds of assumptions that are based in viewing the world, viewing the north in those terms is where I derive that mythology. The idea that a process of industrialization is inevitable, that it's inevitable that native cultures will move into an industrialized wage economy assimilated lifestyle.

Q Yes, but let's get back. The myth is that native culture is static and unchanging. I'm suggesting to you that that application deals with a native culture that has been impacted and quite severely impacted by the European type of culture.

A O.K.

Q So it is changing. It might not be changing in a way that seems desirable to you and the other members on the panel here.

A It's changing in the sense that it's been impacted. I certainly agree; but in any reference to anything called native culture or close to it, or traditional lifestyles, the reference is only made for living off the land, but that seems

to be what the applicant seems to feel native culture is about. There isn't a reference, for instance, to the Dene as a people developing an alternative kind of economy. There isn't a reference to the possibility that the Dene people might develop their own way of life, their own systems, but they might make choices between the two which are posed here, of either returning to the land or working for some sort of wage economy.

Q O.K., so then essentially your complaint is that it gives two alternatives and nothing in between or nothing different.

A Yes, and doesn't accept the possibility of the native culture evolving. Any reference to native culture-- there's a section on traditional lifestyles in the first paragraph, part of it reads:

> "It naturally follows that regardless of the magnitude of dev elopment during pipeline construction and operation there will always be a desire on the part of some Indian and Inuit people to return to the land. Their interest will have to be protected."

But nowhere do you talk about protecting the interests of the people who maybe don't want to live off the land but don't want to work for the oil companies. So that whole alternative way of life is not seen.

Q And you say there are people like that, that in fact the culture has evolved and there are people in the valley like that who have not been dealt with in that application.

A Yes, I'm saying that that is the essence of what Dene people are saying with the Dene land claims, is that they want to develop their own alternatives and that that possibility isn't considered in the application.

MR. HOLLINGWORTH: Are you planning to call a panel on the evolving nature of the Dene culture, Mr. Bell?

MR. BELL: I don't think I could call it that. We're not calling a panel on -- that's entitled:

"The evolving nature of Dene culture."

I think all of our witnesses to a certain extent will give some clues as to how Dene people see themselves evolving, and the final policy panel will, I'm sure, be happy to deal with that question if you put it to them.

MR. HOLLINGWORTH: You are calling a policy panel?

MR. BELL: Yes. I said that in my opening remarks, that we would have a policy panel.

MR. HOLLINGWORTH: Sorry, I'm being lost in a flood of words.

A Maybe just to try to tie it down, the kind of discussion that the other people on the panel were having in terms of developing Dene Councils and Dene political systems within Fort Smith, is an example of the potential of Dene culture to evolve to cope with present-day realities.

Q But that's Dene culture evolving and dealing with present-day reality which in fact is the European type of culture.

A The present reality is a colonized situation.

Q Of European culture.

A Yes, southern Euro-Canadian culture.

Q You don't feel the application deals with that?

A The application deals with it only in terms of Dene people assimilating into that culture, into Euro-Canadian culture, either maintaining the traditional lifestyle, living off the land, it's almost a no -contact, pre-contact way of life, or close to it, or a way of life of assimilation or integration into --

Q Well,maybe I missed the point, but I understood that Mr. Kurszewski and Chief Cheezie read us -- didn't necessarily read either, but they gave us long dissertations about an attempt to get into the European culture that you say is part of the colonization process, and to get into the European culture on the European culture's terms, assimilating into it, in that particular aspect of it.

A I see no contradiction. That may have been what the attempts were, to run candidates in the Fort Smith election. A colonized people, a people who have been dominated by another group of people are going to try and gain power in

any ways that they see possible, and it seems to me very often, and from my experience in the north the first attempt is to try and gain power on the terms of those who come in, try and play his game, but I think the north has moved through that phase, the Dene people are moving through that phase where they're starting to realize that they don't win that way, they don't get what they're after.

Q That's what your panel has been all about.

A Yes, right.

Q But it seems to me, let me get back, to say that Mr. Kurszewski and Chief Cheezie were describing the process and trying to assimilate unsuccessfully, as it turned out, as a particular example, in the election of 1975. You've just said that assimilation has been dealt with in the Foothills application.

A I'm saying that that's the model that Foothills uses, yes.

Q All right.

THE COMMISSIONER: Bear in mind, Mr. Bean, that insofar as Arctic Gas and Foothills have offered in the material they filed, offered the Inquiry an exposition of the advantages of wage employment for native people that the pipeline will offer, opportunities for native people as entrepreneurs in connection with pipeline construction, operation and maintenance. Those are the assumptions in the pipeline guidelines and no doubt -- and the pipeline guidelines

are a policy document of the Government of Canada, and no doubt it would be the assumptions upon which nine out of ten people in Southern Canada that you stopped on the street would express. I mean this is turning into a bit of a -- you used some expressions, "myths" and so on, I think perhaps made counsel for the two companies feel that you were being unduly critical of them and they were in a sense merely setting out what they proposed to do as the guidelines indicated they must. There's a set of assumptions built into the guidelines, that have in a way been challenged by some witnesses that Mr. Bell has called on the footing that the assumptions that are in those guidelines are assumptions that are now in some measure at least discredited in terms of Canada's aid policies to Third World countries and so on. I'm just saying that I don't think we should -- it gets us very far to say, "You did," "no, I didn't." I'm not suggesting either of you is doing that, but I think in this Inquiry the attitudes that all of us had towards these things are in a sense at least being reconsidered in light of all that we've heard from the beginning of the Inquiry to now, and so if what is in those documents that these two companies have filed over a year ago and perhaps prepared a lot of it a year before that, for all I know, Mr. Hollingworth pointed out that Mr. Gibson as chairman of the Board has been saying some things to theEnergy Board, and in a public address that I thought I had read about, that he wouldn't have been saying a year ago, what he wouldn't

have thought about a year ago; this is certainly not to his discredit. What he said a year ago would probably conform exactly to the assumptions in the guidelines, and at any rate, it seems to me -- let me just put it this way to see if I can put an end to this argument between you two that doesn't seem to be getting me very far.

You say, they assume that native culture is static and uunchanging. Well, certainly in their applications they proceeded on the assumption that it would be a good thing if native people worked on the pipeline on construction, operation and maintenance. They get that out of the guidelines, the document setting up the policy of the Government of Canada. So if they are, in light of Mr. Gibson's statements, reflecting upon some of the assumptions that went into their applications, well that's I suppose all to the good, it shows that maybe we're all learning a little bit here. I'm not suggesting for a moment they fundamentally altered the footing on which they're proceeding, but at least they're listening to what's being said here at the Inquiry. At any rate, I'm sorry, Mr. Hollingworth --

MR. HOLLINGWORTH: NO, not at all, sir, I appreciate your comments.

A I am going to concede that my evidence is based on the applications and I haven't studied the guidelines in any detail, and you may be simply following orders.

Q I think Mr. Bean and I

will agree that a good deal of our disagreement boils down to basic philosophical views that are incapable of cross-examination.

A Maybe I could agree to allow Foothills to evolve if they could see the same possibility for Dene culture.

Q I thought you couldn't speak for the Dene.

THE COMMISSIONER: Well, I think you had the last word, Mr. Bean, on that matter.

MR. HOLLINGWORTH: A couple more points, Mr. Bean. The second myth is full employment equalling freedom or self-determination, and again that gets us down to some basic philosophical points of view, I suggest. But you say at the end of that,

> "If the Dene end up working for the non-Dene in the pursuit of non-Dene interests then it is difficult to classify such a situation as the self-determination of the Dene."

Now I take it that that situation, as far as you're concerned would be reversed if the Dene worked for the Dene, no matter what the pursuit was.

A No, a full reversal would have to be in pursuit of Dene interests.

Q And what do you define as Dene interests?

A I can't define that. That would have to be with the Dene collectively to decide if it's in their welfare.

Q Well, suppose the Dene

collectively decided, take up Mr. Blair in his offer to purchase some shares in Foothills Pipe Lines, assuming it was the successful applicant, and then Dene worked for Foothills, would you call that a reversal of the situation you've set out there?

A I really don't feel I can answer that question. I mean that's up to the Dene. I can't make that kind of supposition.

THE COMMISSIONER: Suppose Foothills worked for the Dene.

A Yes, maybe that-- I maybe able to make the supposition on those grounds.

MR. HOLLINGWORTH: All right. Well, I think you'll agree that the remainder of the myths get into this basic philosophical difference and there's no point in going on with it. Just a couple of more points.

Q Chief Cheezie, did I understand you to say that on the ballots in the 1975 election, if four spaces weren't completed then it was discarded as a rejected ballot?

WITNESS CHEEZIE: I don't think so. I think I said that but that's not what I meant.

THE COMMISSIONER: They just counted it --

MR. HOLLINGWORTH: They just count the one but leave out the remainder.

A Right.

Q And just assume for a moment if you perpetuated the existing system, do you think it would be helpful to have a bilingual ballot and bilingual voting instructions?

A Well, it would seem to be -- well, if there was -- if the Dene could -- a lot of people would understand syllabics and everything else and it might seem to be helpful but on that grounds too, it still comes down to the basic thing that is not the system which we are prepared to operate in. There's no way that there is, that the Dene have any kind of -- especially the Dene around Fort Smith, you know, like my people themselves, the Chipewyan people have any words or anything meaning voting, or all they have is something called -- you put an "X". You put a cross. That's the closest thing that would come to terms of voting and that putting their "X" on anything like it's like putting an "X" on your paycheck or anything. It's the same thing to them. They don't consider that a part of -- a difference there between that and voting. It's all the same to them.

Q No, I understand your basic objection to the whole system but I just asked you

to assume for the moment that that system was perpetuated and what your views were on a bilingual ballot.

A I would think that it would be good.

Q Okay. Those are my questions. Thanks.

WITNESS KURSZEWSKI: Can I -- one more thing I would like to point out to you is clear up one point that you were trying to make there, that the attempt that we made to in the last town council election was an attempt to assimilate. Well, that wasn't what the intemtion of the running of candidates was. It was an attempt to -- it was a groping in the dark. Like Gerry said before of trying to get a hold on something so we can start taking part in the decision making process that exists in the community. It wasn't an attempt by the Dene to assimilate as you put it.

Q I think that I restricted it to an assimilation in that particular area. I didn't mean that your entire culture was trying to assimilate into the white man's culture or anything like that and I am sorry if I left that impression. Okay.

A M-hm.

WITNESS BEAN: I was just going to say -- you made the comment that our differences are philosophical. I'm not sure what you include in that. It seems to me that what I'm saying is that if you are following dictates made by some guidelines, then perhaps you are not the people that I should be accusing of having a colonial kind of approach. But based on this

document, I think it's somewhat different than just a philosophical dispute.

MR. HOLLINGWORTH: Well, that's interesting. I sometimes feel I am sitting here taking it on the chin because the person you really want to get isn't sitting here.

THE COMMISSIONER: Well, we will not pursue that. Well, Mr. Steeves?

CROSS-EXAMINATION BY MR. STEEVES:

Q Mr. Cheezie, are you an elected chief or a hereditary chief?

WITNESS CHEEZIE: I am an elected chief.

Q How were you elected, by a majority vote of the people in your group?

A By consensus.

Q By straight consensus, you mean, there was a meeting and it went on and on and on until a consensus was reached about who should be chief? Were there other people running -- trying to become chief?

A Yes.

Q Could I ask the same question of you, sir? You, I understand, are leader of the Metis people in the Fort Smith area. Are you elected?

WITNESS KURSZEWSKI: Yes, I am elected.

Q Were you elected by the same process?

A I was elected by acclamation so it was a consensus, I think.

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Q Acclamation and consensus are in that sense the same thing, are they not?

A Well --

Q I'm sorry. I'm not trying to -- I'm being quite serious about it. In the process -- in the process within your own group for election, you say, when you were elected ended up by, in an acclamation; that is, anybody else that was around you, withdrew, is that right?

A That's true.

Q Okay.

WITNESS CHEEZIE: I could -- the Department of Indian Affairs through the Indian Act, or whatever, would like to see us be elected by a same way as we elect a Mayor or any kind of person that was caught in the position of responsibility. That's the way they would like us to operate but that's not the way that we see ourselves operating. It's a kind of thing where people just never had that kind of a system before. And they refuse to acknowledge the Indian Affairs Indian Act, trying to tell us how to vote for our leaders and how they can't operate in certain instances. We've tried to go like that, like I, myself, consider myself educated, you know to the point that I understand a little bit about the white man's way of governing and I try to say I think some ideals are good in that democratic process, but it does not operate as good as, I think, the way the Dene have their own system of operating to elect their own people. They don't have a system where they go out and they say,

"Okay, here is my campaign manager who will, you know, present the candidate and now --". That thing is unheard of in the Dene way.

Q Do you mean somebody soliciting the vote of a member of your group is the objectionable thing? Is that what you mean?

A I don't think so.

Q Pardon me.

A No. He might be saying like I might be the best person for that position but I don't think he would be going around buying the votes. Do you mean that, by soliciting?

Q No, I'm sorry. No, no. I'm sorry. One of the things you found objectionable in what you understand to be the white southern system is the use of agents or other people to try and get voters to vote in favour of a given candidate. Did I understand you correctly?

A That's the way they would like to see us operate, yes.

Q I see and you and your people object to that sort of thing?

A Well, we wouldn't even consider it.

Q Yes, okay. As Chief though, you are -- if the other parts of the Fort Smith community would leave you alone, you would have the trust and respect of your own people and would be able to act as their leader, is that right?

A I would think so.

Q And by that, I mean they wouldn't have any difficulty in giving responsibility to you to look after their affairs?

A I think that's why they put me in that position.

Q Yes. Can I ask? Thank you very much, Mr. Cheezie. Mr. Bean, I notice you using the words "synthesization" or "synthesis and integration" as though they were the same thing. Do you mean them to be the same thing?

WITNESS BEAN: Those words were taken out of 5C, the Foothills document.

Q Oh, I see. You understand them to be something different entirely, don't you?

A I'm not really sure what they mean in the context.

Q Oh, I see. Well, Mr. Hollingworth asked you a question about what you saw in the future and you said you couldn't speak for the Dene, but that you saw some sort of local political organization in which both whites and native people would work together?

A M-hm.

Q And I wasn't sure what -- that I understood exactly what you meant. Did you mean that it would be a Dene or a native political organization in existence, to which white southerners would have to become acculturated?

A What I meant is that as I would see it the system, the process, the structures

would be those that Dene people had decided on and white people could choose or choose not to become a part of that.

THE COMMISSIONER: The white people would then be confronted with the same problem that Chief Cheezie and Mr. Kurszewski were confronted with at the election at Fort Smith last year. That's your -- the result?

A Right. Yes. It would be a system that the Dene had set up given the fact that the white people move here by choice, the Dene people are here because this is their homeland.

MR. STEEVES: I'm sorry. Is that the justification for what you have just said?

A That's not the sole justification, no.

MR. BELL: I think Mr. Bean is saying that the white peoplewould have the same problems fitting in as the --

A Okay, I don't know what the system would be. No, I'm not saying that white people would be left out of the system or would be -- hopefully, it would be a system that the rights of everyone would get recognized in I suppose one way or another.

THE COMMISSIONER: Well, let me -- I was the one that started this. Let us suppose, for the sake of example, as opposed to "for the sake of argument", that you had some kind of local government set up whereby, where it was understood that decisions would be reached by consensus and that might take longer

than white people are used to taking in order to make decisions but it was understood that if you wanted to participate you adjusted to that kind of situation.

A M-hm.

THE COMMISSIONER: You're -- so far, you are saying that people who come here from the south come in here by choice would have to make that adjustment. Now, in that sense, they are and I would think their problems would be much less in degree than those that Mr. Kurszewski and Chief Cheezie confronted at the Fort Smith election last November or whenever it was but they would have the same kinds of problems, that's all. You are with me, are you?

A I'm with you. If I said that the white people would have identical problems, I didn't mean to say that. The situation would be reversed in that the Dene would have defined the system, the process, the structures, that's all I am saying.

MR. STEEVES: That the situation would be reversed describes it in a nutshell, doesn't it?

A Well, don't read too much into that. I mean, I'm not here to --

Q I want to understand what you're saying, that's all.

A Okay, but I can't give you a sort of a full-blown picture of what the system would be.

Q I understand that, yes, all right.

A And I'm not suggesting that the kinds of discrimination that's taken place against native people would then be reversed, and that that is anything that I would see as an ideal kind of solution.

Q Well, isn't the solution really a synthesis? Isn't that really what's needed here?

A I'm not sure what the term "synthesis" means. No, what's needed is the recognition of the rights of the Dene to evolve their system. That system evolves, that system is based, as I understand it, and again I can't speak for the Dene but it's based on very humanistic kinds of principles, and that for a non-Dene who made a decision that he wanted to become part of that system and wanted to live in the north under the systems the Dene set up, would likely have considerably less kind of difficulty fitting into it.

Q Did you hear Mr. Cardinal's evidence?

A I heard parts of it, yes.

Q Which parts, the parts you liked or didn't like?

A I did some time ago.

Q Do you agree or disagree with what he said?

A Give me an example of what you said and I'll tell you. I don't remember any strong

disagreement.

Q Well, as I understood what he said, he said that there should be what he described as a sort of partnership between native people and others in the development of the north, each paying respect to the other. As a matter of fact, I thought the best way of summing up what he said was the necessary condition that must be achieved to apply human principles to the problem is equality both ways. You don't disagree with that, do you?

A The difficulty we get into is words like "partnership" and words like "respect each other" can imply many, many different things. The whole concept of equality can imply many different things. When I worked with the territorial administration people in there felt they had a system of equality, you know. We're all northerners, we're all equal. That's not the way that it was in fact working.

Q O.K. I want to turn to something you said about -- it's on page 28 of your evidence -- and here you talk about Arctic Gas, and I'm sorry, have you got it? There's a quotation from the Arctic Gas application.

> "Arctic Gas states that the new economic opportunities associated with the proposed pipeline and related development can be expected to reduce economic disparities to improve social facilities and as a consequence to broaden political consciousness

and the opportunity for northern residents to participate in the decision-making process."

Then you make your comment.

"The applicant is asserting a direct relationship between economic change and political consciousness or between material well-being and self-determination. Again it is a variation of the money brings happiness myth. "

Now, did you hear Mr. Simpson's evidence?

A Again, I only heard parts of it.

Q Well, perhaps could I -- I'm going to read to you from Mr. Simpson's evidence and I'd like you to tell me in view of what you have just -- I haven't got to it yet -- in view of what you've just stated whether or not you agree with Dr. Simpson, and would you look, please, at page 18? I think your counsel has put it before you, at the bottom, have you got the last paragraph?

A M-hm.

Q

"No native person I know would argue that all is well within the native communities in the north. Too many of their people are tied to welfare, weakened by alcohol, and without a clear sense of direction, Many are part of what some people would describe as the culture of poverty. Oscar Lewis has written:

'People with a culture of poverty have little sense of history. They are a

marginal people who do not believe they can influence the events around them to improve their life. For northerners who are in this situation their sense of dependency must end before things are likely to improve much.'"

Do you agree or disagree with that statement?

A I would generally agree with that?

Q Pardon?

A I would generally agree with that.

Q Well, isn't that just a statement that there is a direct relationship between material well-being and self-determination? I'm quoting again from your own evidence.

A You're saying that in the evidence that Dr. Simpson gave that there's a direct relationship between material well-being and self-determination?

Q I'm sorry, I see a direct contradiction between the evidence you've given on page 28 and what Dr. Simpson said at page 18. I may be wrong, but you appear to have contradicted each other.

MR. BELL: Dr. Simpson is in the audience, perhaps we could ask him what he meant by that statement.

THE COMMISSIONER: Dr. Simpson is still here.

MR. STEEVES: Well, let's not

get into a five or six-part debate.

THE COMMISSIONER: Let's struggle with this point.

A What Dr. Simpson is saying is that if you accept the concept of a culture of poverty, the solution for natives who are in this situation, their sense of dependency must end. The solution is a political solution. The solution to the culture of poverty isn't giving people money, isn't just increasing the material wealth. It's a sense of dependency that changes it. I don't see any contradiction.

MR. STEEVES: All right.

THE COMMISSIONER: Dr. Simpson wanted to add something.

DONALD G. SIMPSON, resumed:

THE COMMISSIONER: Dr. Simpson, if you want to take that chair next to Mr. Bean and comment on this, you're quite welcome.

MR. STEEVES: I'm sorry, what's Dr. Simpson going to comment on, the apparent contradiction?

THE COMMISSIONER: Well, the words that were used were his and he had his hand up behind you, and in fairness, that indicated to me he wanted to say something. I think he wanted to say something so you comment on this discussion we've just had.

WITNESS SIMPSON: We have not

discussed the presentations at all.

MR. STEEVES: I'm sorry. I missed what Mr. Bell said. What did you say?

MR. BELL: There's been no collusion.

A There has been no collusion between the two of us.

The point has been picked up well; what Lewis is talking about is there are a group of people, for instance, you sir, if suddenly you were put in straits where you did not have any money Lewis would say you would not become part of the culture of poverty because all of your instincts are that, "I know that I can have some influence in the environment around me so I can change things and it will be different next month and the month after next, and even though I'm poor this month, I'll be back on my feet, I'll be able to control my life,"and there are other people that don't have any feeling that they can influence their lives like that. Therefore giving them money is not the answer to the situation. It is dealing with that problem of dependency.

THE COMMISSIONER: I was struck, like Mr. Steeves, by that quote from Lewis. What he says is clearly applicable to the urban poor, isn't it? If you were reading that you'd say, "Well, that clearly applies to the urban poor." That is people say in urban centres, families, and they exist, we are told, two or three generations on welfare are the

people clearly identifiable as being within the culture of poverty. What troubled me about that quote -- and I'd like your comment on this since you're there -- is people may be poor by our standards of affluence, the Dene before contact with white society were people who had a subsistence economy, they were poor but they would not fall within Lewis' culture of poverty.

A That's right. I have lived in African villages which may be described by many of us here as poor, but there was no sense of cultural poverty. Much of the information that will be coming to the U.N. Conference in Vancouver at the end of this month on human settlements deals with this issue. Some of the situations where the white middle class look in and say, "This is a poor community that needs to be helped." In fact is functioning in a very viable manner.

THE COMMISSIONER: Well, it's viable. All right, thank you, sir, thank you very much.

(WITNESS SIMPSON ASIDE)

THE COMMISSIONER: Any further questions? That'll teach you.

(LAUGHTER)

MR. STEEVES: We've reached a consensus, I don't want to destroy it.

THE COMMISSIONER: Mr. Goudge, you may have a question or two, I suppose.

MR. GOUDGE: Yes sir, I won't be long.

CROSS-EXAMINATION BY MR. GOUDGE:

Q Let me just pursue, Mr. Bean, with you a question that the Commissioner raised concerning a hypothetical consensus model of local decision-making. I take it you would see that kind of model, if it were generated by the Dene, as one into which non-Dene who lived in the north could opt.

WITNESS BEAN: This has become the focus of some questioning and I really don't feel comfortable. I have to re-state it's a personal opinion.

Q I'm quite aware of that. Given that preamble --

A Your hypothetical question will get you the hypothecal answer of "yes".

Q I wonder if in that context you see any risk at all of this kind, that the consensus model, if developed by the Dene, requires a cultural background to operate within it that would not be shared by non-natives.

A Well, partly that's why some of the terms and conditions that I've heard expressed here and have been expressed in Territorial Council are things like a 10-year residency rule, that people do get a sufficient time to get an understanding of what the system is, what the consensus model would be.

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Q In order that they could operate effectively within it?

A Yes.

Q Without that kind of time training, time for aculturation I suppose, it would be ineffective as a system into which they could opt with any effect.

A Not only without any effect. It might be disasterous, you know, if they came in with expectations of three months living in the north that things were going to operate on the same kind of system as in the south. It could make it very difficult for that system to operate.

Q Difficult for the system or difficult for them to feel that the system worked for them?

A Probably some of both. Again, we're really into a hypothetical area. You know, its --

THE COMMISSIONER: Mr. Bean, one of the mistakes we make it seems to me in this discussion, counsel make perhaps, they only do it for the sake of argument as a legitimate consideration, is suggesting that things like making decisions by consensus are strange and exotic when they are not. We make decisions by consensus all the time or try to.

We're told that in the Federal Cabinet of Canada, they seek to make decisions by consensus. They don't all have their hands going up and down taking votes. I really don't think that you're

asking a white southerner to completely adjust his whole world view if you suggest that some decisions should be made by consensus instead of on the assumption of a partisan, political structured situation where people argue and then vote and majority rules and that's the end of it and on to the next piece of business.

Now, well anyway.

A Yes I accept that.

THE COMMISSIONER: In the Society of Friends I thought they reached decisions by a consensus. The Quakers.

MR. BELL: At meetings of counsel we sometimes make decisions by consensus.

MR. GOUDGE: On odd occasions.

THE COMMISSIONER: You said that the Doukhobors do.

A Yes, certainly.

THE COMMISSIONER: Yes, well the next question.

MR. GOUDGE: Let me ask you Mr. Bean in light of that and perhaps coming back to your ten year residency suggestion, is that more than would be needed in order to make a consensus system work for both native and non-native? Or do you feel uncomfortable in that kind of hypothetic?

A Yes, the basic issue and the one that I think I can state with some comfortableness is the right of the Dene to evolve their own system. For you and I to start conjecturing on what

that system might be and what the difficulties would be, I really do feel uncomfortable in.

Q I take it the same would apply if I asked you to list alternatives that might be developed that could encompass both native traditions and be available to take in non-native?

A Yes, I wouldn't want to get into that.

Q Mr. Kurszewski, let me move to you. You say in your evidence that in the organization that you head there has been a structure created that provides for a consensus as I understand it. Is that so?

WITNESS KURSZEWSKI: Well, the people like to make most decisions by a consensus.

Q You do that, as I understand it, by having an organization which has involved in it the heads of all the families concerned?

A Well, the type of organization that is being developed presently is based on the traditional types of thinking I suppose and the way that it's being developed at this time is along the lines of family units selecting the people who they want to bring their views forward to the rest of the community and this is the way in which it's evolving right now.

Q Have you had enough experience with it to be able to tell us whether that system of decision making can deal with decisions that may have to be taken in some compressed time frame?

A As I said, it's in a

period of evolvement right now so I couldn't really give you that type of answer.

Q I see. Mr. Bean, one of the points you make in your evidence as I read it at least is that one of the features of the local government program has been the fact that there has been funding supplied by outside sources and that therefore local decision making bodies respond because of that.

WITNESS BEAN: If -- the point I was making on responsibility to the funding agency if that's what you're referring to, it was more than just they respond because of that. But, the bodies were set up so that people felt that their responsibility was to the funding agency, not to the electorate. If I'm referring to the same area that you're referring to.

Q Yes. Is that in your view something that is, if I can put it this way, a necessary corollary of local decision making that is so long as there is funding from outside any local decision making body, must be responsive to the funding source?

A Well, we're using different terms. The idea of a body being politically responsible to the people it elects or that has elected it I think is important. The primary responsibility of any political body in a democratically elected body is to those people who chose it and certainly the body will have to make agreements with funding sources if they're outside. But it's responsibility is not to that body.

Q You don't see any inherent danger because funds are provided from outside; any necessary erosion of responsibility to those that select the decision makers?

A I see the potential there for it, yes.

Q Is a potential which will always manifest itself in difficulties for the decision makers? In other words, can you have local decision making with outside funding that is nonetheless responsible to local needs?

A I think your going to the question of the interests of the outside agency in funding it, you know, why are they providing the funding? What are they expecting to get out of the agreement?

THE COMMISSIONER: And will it be continued?

A And will it be continued? What are the guarantees that it's ongoing regardless of the decisions that that body makes.

MR. GOUDGE: If there are such guarantees you would see it as having no erosive effect on the responsibility dimension of local decision making? Is that so?

A Certainly a lessened effect.

Q Is that the best way to, if you will, sterilize the funding process to local decision making bodies?

A Yes, I would think that would go a long way towards it.

Q The provision of guarantees that it will continue no matter what.

A That it will continue, that the kinds of decisions being made have no influence on whether or not the funding will continue.

Q Now, Mr. Bean, do you know -- well, let me begin this way. There is, as I understand it, a program engaged in by the Federal Government to encourage the participation of northerners at least in federal civil service positions. Are you aware of that?

A This is the one that sort of recently announced? I'm aware of the existence of a program.

Q Yes, the new careers program which I think was recently announced. Do that in your view go any distance towards achieving the kinds of things you speak about in your paper, the provision of more self-control?

A No, I think it's a false view to suggest that if the Territorial Government, Territorial Administration were occupied by native people that it would change the nature of that administration.

Q Why is that?

A Because the administration is responsible to Ottawa, its dictates, its guidelines, its interests are defined by Ottawa.

THE COMMISSIONER: Well Mr. Steeves -- Mr. Steeves. Mr. Goudge, sorry. But Mr. Bean, in his paper cited a passage from Arctic Gas'

application at page 28 and it reads:

> "The new economic opportunities associated with the proposed pipeline and related development can be expected to reduce economic disparities to improve social facilities, and as a consequence, to broaden political consciousness and the opportunity for northern residents to participate in the decision making process."

That's asking an awful lot of a pipeline and it may be, Mr. Steeves, and this is just a comment I throw out for your consideration, and it may be that Arctic Gas, when it comes to the final summation of its case, will will take the view that they have overstated the advantages of a pipeline.

That passage struck me because Dr. Asch's paper, given last Thursday challenged, I think, every one of those propositions and that is an area where the two pipeline companies and Dr. Asch no doubt will come to grips when he returns for cross-examination.

But it may be there's been a tendency to exaggerate the advantages of pipeline in the same way that there may well have been a tendency to exaggerate the adverse impact that it might have. I know that's taken from the material filed back in March '74, that's two years ago now. It strikes me because if you recollect Dr. Simpson's paper delivered yesterday, he pointed out that there was not very long a tendency to believe that these vast projects were almost a panacea and although they may be necessary and although

they may be worthwhile, it may well be they don't bring all of those advantages with them and the Federal Government and the Territorial Government have not altogether succeeded perhaps in achieving those objectives by the methods they've chosen so far.

MR. STEEVES: May I answer, sir? I'm saying that as far as I'm concerned Arctic Gas has no intention of withdrawing from that statement or modifying it in any way and that we intend to offer you evidence and I'm talking now about enlightening --

THE COMMISSIONER: "En" what?

MR. STEEVES: Enlightened evidence from people who have thought about this problem and who are going to tell you the other side.

THE COMMISSIONER: All right. I understand. Okay.

MR. STEEVES: I want to stress that it's not some capricious statement made without consideration and that the statement has been considered since it was made. So, indeed, we are going to lock horns and join issues.

THE COMMISSIONER: Okay.

CROSS-EXAMINATION BY MR. STEEVES (CONTINUED):

Q There is one matter that I wanted to put to Mr. Bean and that's -- for a change, this is something I had in my notes but with respect to intervention, put me off. One of the criticisms, sir, and Mr. Bean, you made in your evidence, is you take the inference from the filing of Arctic Gas that it's the position of Arctic Gas that the Dene are in a static situation here internally and externally. I understand that to be a criticism, is it not?

WITNESS BEAN: Internally and externally.

Q Well, as a people they are static, isn't that the inference you draw?

A I don't see any evidence of the potential of the culture to evolve to deal with present reality.

Q Well, it's quite clear, is it not, that in fact the Dene and all of the native people of the north are not in a static position?

A Okay. The issue, I think, is change and what defines change. In order that the Dene culture not be seen as static, then you have to see the potential for the Dene culture to evolve on its own without simply reacting to impositions from external sources.

Q There are people within the Dene who, small though they may be in number, who support the idea of development, are there not?

A Certainly.

Q Well, haven't you spoken to some of them?

A I said, "Certainly".

Q Yes, and there are people within the Dene, perhaps the majority, who oppose development, at least oppose development at the present time?

A By development, you mean your proposal?

Q I mean our proposal of a pipeline.

A Yes, yes.

Q How does the consensus way of making decisions operate in that circumstance?

A Again, you will have to ask the Dene. First of all, you know, you would have to accept the right of the Dene to be making that decision.

Q Yes.

A You know, I think the way we could find out is, you say, "okay, we'll let the Dene decide whether or not there is a pipeline" and then you and I can watch and see how they make that decision. I mean, the nature of colonial impact is such that the Dene as a people, the Dene nation has not been allowed to make major decisions, so that overall consensus method at that level is not necessarily fully functioning at this point in time and fully intact.

MR. STEEVES: Thank you, sir.

CROSS-EXAMINATION BY MR. GOUDGE (CONTINUED):

Q I have one last question, Mr. Bean, if I may. If I can prevail on the Commissioner for just one more minute. You have told us a good deal about the possibility of, if I can put it this way an indigenous system of local decision making developing. If such a system did develop, I take it it would be a system within the rest of Canada.

A Yes.

Q And as such, it would perhaps have to respond to decisions asked of it by the rest of Canada, is that, am I understanding it correctly?

A Decisions asked of it by the rest of Canada?

Q Yes.

A Yes.

Q I wonder if you have given any thought to the kinds of constraints or altered views that the rest of Canada might have to undergo in asking questions of such a system. Let me give you a specific example; if, for instance, to come back to the hypothetical that you and I had trouble with a minute ago, the indigenous system were a consensus system, it might require time to reach decision. Might it be conceivable that the rest of Canada would require decisions of it in time frames that were not operative insofar as the indigenous system was concerned. Is that a danger point?

A It may be. Let me try to answer it in a little different way. Maybe this consensus model that you keep talking about is developing a sort of a mythology of its own. A consensus model would not necessarily have to mean that every single Dene would get involved in one large meeting to make a decision. You know, there's no contradiction between having a representative model and a consensus model.

I could foresee in a very general sense, a consensus system where with small groups of people reached a decision by consensus, someone then represented that consensus to another level where other representatives reach a further decision by consensus. I don't want to be --think your question sort of directly implies that consensus is a very, very, slow method. I think we can overstate that. It' s not

necessarily -- I don't know. But if you assume that --

THE COMMISSIONER: Isn't it fair to say though, given Mr. Goudge's question, that it may well be that if there is a different system of making decisions here in the Northwest Territories whether it be Dene, Inuit, or whatever, that system being one that would be formed to the thinking of people still living in the south and making decisions according to the model of liberal democracy as we know it, that they would become impatient and frustrated with their dealing with the Dene and Inuit decision making? It seems to me that's a risk and it's a risk I suppose that Upper Canada and Lower Canada used to incur with each other, maybe a hundred years ago. But if you did let us suppose that that Inuit proposal to the Cabinet were adopted by the Cabinet and established and installed you might find that, and a Dene proposal that incorporated changes in the way decisions are reached in the very process itself, that perhaps the Inuit proposal doesn't. You might have tensions occurring between southern Canadian decision makers and the people in the north. I mean, there's no argument about that, is there?

A No, I'm not arguing that. The risk is there. The only point in stating that there isn't a contradiction between the representative system and a consensus model is that it may be possible to overstate the risk. I don't think it's an impossible kind of tension to deal out.

MR. GOUDGE: I see. Thank you, sir. Those are the questions I have.

THE COMMISSIONER: Any re-examination?

MR. BELL: No re-examination, sir.

THE COMMISSIONER: Well, what's the programme tomorrow?

MR. BELL: I think it's Mr. Veale's show tomorrow, sir.

THE COMMISSIONER: Mr. Veale? Well, I heard you had one more witness.

MR. BELL: Yes, we have one more witness but we have agreed to let Mr. Veale start tomorrow morning. We would like to get Miss Forrest on before the end of the week.

THE COMMISSIONER: To what?

MR. BELL: To get Miss Forrest, who is our witness, on before the end of the week.

THE COMMISSIONER: Oh, she is from Alaska?

MR. BELL: No, she's dealing with the subject of the Alaska settlement.

THE COMMISSIONER: Oh, I see. Right, okay. So we'll deal with the Yukoners tomorrow.

MR. VEALE: Yes, sir.

THE COMMISSIONER: All right. Well, I just want to thank the panel before you all leave. The problem we had with Professor Hills was that he wanted to leave before I could thank him. Now, everybody else wants to, but I do appreciate the way all of you have responded in cross-examination to these difficult

questions and I think it has been a worthwhile discussion because that's what it has been, rather than a cross-examination in any conventional mode.

It may be that it's a new vogue in decision making, so 9:30.

(WITNESSES ASIDE)

(PROCEEDINGS ADJOURNED TO MAY 5, 1976)

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MACKENZIE VALLEY PIPELINE INQUIRY

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IN THE MATTER OF APPLICATIONS BY EACH OF
(a) CANADIAN ARCTIC GAS PIPELINE LIMITED FOR A RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS CROWN LANDS WITHIN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES, and
(b) FOOTHILLS PIPE LINES LTD. FOR A RIGHT-OF-WAY THAT MIGHT BE GRANTED ACROSS CROWN LANDS WITHIN THE NORTHWEST TERRITORIES
FOR THE PURPOSE OF A PROPOSED MACKENZIE VALLEY PIPELINE

and

IN THE MATTER OF THE SOCIAL, ENVIRONMENTAL AND ECONOMIC IMPACT REGIONALLY OF THE CONSTRUCTION, OPERATION AND SUBSEQUENT ABANDONMENT OF THE ABOVE PROPOSED PIPELINE

(Before the Honourable Mr. Justice Berger, Commissioner)

Yellowknife, N.W.T.

May 5, 1976.

PROCEEDINGS AT INQUIRY

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Yellowknife, N.W.T.

May 5, 1976.

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: All right, ladies and gentlemen.

MR. VEALE: Mr. Commissioner, before presenting the first witness for the Council of Yukon Indians, I had some discussion with Commission counsel relating to the motion that I made previously, I believe it was in January, relating to community hearings along the Alaska Highway. I would like to bring that motion forward once again while I'm here and any time is convenient for myself. I believe Mr. Goudge suggested immediately after lunch today or Thursday, I believe.

MR. GOUDGE: I suggested that, sir, if it suits you, just so that the participants would have some time to collect their thoughts and would all be prepared to address some hopefully useful remarks to you tomorrow, say right after lunch.

THE COMMISSIONER: All right. Let's do it then. My recollection is that back in January, Mr. Veale made a submission to me that in view of the fact that the native people of the Yukon would be affected if the Fairbanks route were chosen, that the Inquiry should hold community hearings in the native villages along the proposed Fairbanks route in the same way as we had held our community hearing at Old Crow last summer. Mr. Veale argued his motion, as I recall, and it was understood at that time that

counsel for the other participants wouldn't be required then to respond, but that the motion would be left in abeyance; and now that Mr. Veale intends to bring it forward again it might be useful if tomorrow, Mr. Veale, you were to outline again the considerations that were discussed in January because they may not be fresh in the minds of all of us.

MR. GOUDGE: For the assistance of the other participants, sir, it was on January 14th in Volume 109 of the transcript.

THE COMMISSIONER: So counsel might look at what Mr. Veale said then and be ready to respond tomorrow.

MR. STEEVES: Mr. Commissioner, there is another matter, before my learned friend begins. I'm not quite sure what occurred. There is a witness who I understood was going to be called by Mr. Bell, and that is, I believe, Miss Ann Forrest, who is going to speak, I think it's fair to say, critically about the Alaska settlement. I see that Mr. Notti of the Alaska Native Organization is one of the witnesses who is going to be called by my friend, Mr. Veale. There are some very obvious conflicts in the evidence between Miss Forrest and Mr. Notti and I wonder what the arrangement is between my friend, Mr. Veale, and Mr. Bell, as to the order in which those witnesses are going to be called, and whether or not we're going to have an opportunity of dealing with that subject in its entirety, rather than separately?

MR. GOUDGE: Perhaps, sir, I

could speak to that. I had understood the arrangement of counsel that Mr. Veale was to be permitted to begin his case in chief this morning and would run through it. One of his witnesses is, as Mr. Steeves says, Mr. Notti. Cross-examination of Mr. Veale's witnesses would be completed and then Mr. Bell would resume his case and I take it on resuming would call Miss Forrest whom he hopes to be able to fit in this week, and as I understand it, sir, in the usual way all witnesses would be available for full cross-examination.

THE COMMISSIONER: Well, if Mr. Notti, as his evidence precedes Miss Forrest's, that is if those two witnesses appear consecutively, then if that can be arranged that might be helpful.

MR. VEALE: That's the way it's intended to proceed, Mr. Commissioner.

MR. STEEVES: Well, will Mr. Notti be made familiar with Miss Forrest's evidence before his cross-examination? That's what I'm concerned with.

MR. VEALE: Yes, he will be familiar with that evidence.

Mr. Commissioner, the first witness for the Council for Yukon Indians is Dr. William Irving. Dr. Irving has appeared before the Inquiry and been sworn in Old Crow in the summer of 1975. The evidence of Dr. Irving and his qualifications have been filed with the Inquiry, and just before going into Dr. Irving's qualifications I'd like to indicate that Dr. Irving has provided certain documentation, along

with his evidence and I'll just list those, if I may, Mr. Commissioner. They have also been filed with the Inquiry.

The first is a document entitled:

"Recent Early Man Research in the North,"

by Dr. Irving in 1971. An article by Dr. Irving and Dr. Harington in 1973 entitled:

"Upper Pleistocene Radiocarbon-Dated Artifacts in the Northern Yukon."

Thirdly the report on the University of Toronto, Northern Yukon Research Program; and then a volume entitled,

"Northern Yukon Research Program, 1975-76,"

which contains a Directors Report, Associate Director's Report of field and current activities, Northern Yukon Bibliography.

An article entitled "Palaeobotany" by Dr. J.C. Ritchie and L. Cwynar. Is that the correct pronounciation?

Also an article by Savage entitled "Faunal Analysis".

WILLIAM N. IRVING, resumed:

DIRECT EXAMINATION BY MR. VEALE:

THE COMMISSIONER: Entitled what?

MR. VEALE: Fauna would be the --

THE COMMISSIONER: Oh, fauna, fauna. Oh yes, I thought you said "final".

MR. VEALE: Also the personnel of the Northern Yukon Research Program and the 1976-77 field plans for the Northern Yukon Research Program. Also an article by R. D. McFee entitled "ELements of Subsistence Systems of the Yukon Kutchin" by the Northern Yukon Research Program, University of Toronto.

Dr. Irving has also provided the Inquiry with a copy of three photographs of the Klokut -- that's K-l-o-k-u-t -- site near Old Crow, and also a copy of three maps of the prehistoric sites which he will be referring to during the course of his evidence.

I believe Mr. Commissioner that you have the photographs and the maps in front of you. Dr. Irving also has a copy of the photographs and maps if any of the counsel wish to look on during his evidence.

Q Dr. Irving has an extensive curriculum vitae and I will just highlight some of the aspects of it. Dr. Irving, I understand that you obtained your B.A. in anthropology in 1952 from the University of Alaska.

A Yes.

Q You did graduate work in anthropology from 1953 to 1957 at Harvard University.

A Yes.

Q In 1964 you obtained your Ph.D. in anthropology from the University of Wisconsin.

I understand that your present position is that of Professor of anthropology at the University of Toronto. Is that correct?

A That's correct.

Q Your field work, some of the highlights are, at 1961 you did reconnaisance and excavation and survey of modern settlement ecology in the Brooks Range in Alaska.

In 1966 you did excavation in northern Yukon territory entailing inspection of sites in central -- oh, and inspection of sites in central and northern Japan.

A Yes, that's right.

Q In 1971 you were involved in a survey of the proposed Mackenzie Valley pipeline route by air.

A Yes.

Q I understand also that in 1951 or '52 you were a museum assistant at the University of Alaska Museum.

A Yes.

Q Also in 1952 and '53 you were Museum Assistant as well and principle investigator of the University of Alaska Colville River Project.

A That's right.

Q In 1957 to '59 you were archaeologist with the Smithsonian Institution Missouri Basin Project.

A Yes.

Q In 1959 through to 1963, you were a teaching and research assistant in anthropology at the University of Wisconsin.

A Yes.

Q In 1964 and '65 you were the head of the Western Canada Section of the Archaeology Division of the National Museum of Canada.

A Right.

Q In 1968, you assumed your position as Professor of Anthropology at the University of Toronto.

A Right.

Q In 1975 you became the Director of the Northern Yukon Research Program at the University of Toronto.

A Yes.

Q Dr. Irving also has an extensive list of publications and manuscripts. Suffice it to say Dr. Irving that you have published in "American Antiquity", the "Arctic Institute of North America", "Arctic Anthropology", the "ARctic Circular", "Science" and in all those publications, you would have been writing about your profession, archaeology.

A That's right.

Q I think that sets out some

of your background Dr. Irving. Would you now read your evidence?

A Thank you Mr. Veale. I addressed this Inquiry last summer as has been mentioned and what I have to say this morning is, I hope a little more succinct than my testimony given somewhat extemporary in Old Crow.

THE COMMISSIONER: And about one in the morning, as I recall.

A I hope that it will be useful in connection with the supporting documents which I have placed at the disposal of the Inquiry.

The Northern Yukon Research Program with nine senior scientists is preparing for its second field season in the Old Crow area. The report of the first season and plans for the second are attached to this testimony, this statement.

Our research and that of the coordinate group of government scientists is based on more than ten years of independent studies by several of the principle investigators. My own interest in the area began in 1965 and I expect our program to continue through 1980.

We're engaged in "pure" research. Inasmuch as each scientists sets his own objectives within a rather broad frame of reference, which is the historical biogeography of the northern Yukon with special reference to Man.

Now I mention these things at the beginning of this statement because it would be useful, and I think important, to take note of the unusual concentration of scientific effort in the Old Crow area, and also of the broad and in general, I hope profound, scientific experience on which this effort is based. We are interested in this area as scientists, not because it happens to inspire some arcane curiosity, but primarily because it provides a number of unique opportunities to learn about the environmental history of the north and about the history of the people who lived there, from the very earliest time of man's arrival until the present. Because such opportunities are not found together in most other parts of Canada, our work in the Yukon will inevitably be of much more than local or regional interest. Indeed, at the present moment we have the best, if not the only secure evidence that man was in North America more than 17 or 18,000 years ago. Our indications are that man was in the Old Crow area at least 29,000 years ago, and possibly much before that time. From this we must infer that man very probably was in Southern Canada by about the same time, if man could get to and survive in the Northern Yukon he could get to and survive almost anywhere, and he probably moved very rapidly south, as far, for example, as Nicaragua, where Dr. Richard Morlan and I are consultants on an excavation that probably will confirm that man got there 30,000 or more years ago. This shows in one way at least how the Yukon evidence is related to that of other parts of the Western Hemisphere.

Our concern in the Old Crow area, however, includes also the recent and present inhabitants. In particular we are interested in the patterns of land use and resource exploitation of the last period before the fur trade became important, and in the early fur trade period (which has been called "contact -traditional" stage by Helm and Damas). Here again we have unusually good, almost unique resources with which to work. Our research so far, which is dealt with in a technical matter by -- in the attached paper by Ronald McFee, shows that the 19th century Kutchin ancestors of the modern Old Crow people followed a highly organized pattern of life, oriented in part to large caribou corrals (sometimes locally called "caribou fences") and fish traps, and caribou crossings at rivers where organized hunting provided food for future use. An indication of the level of organization is given by the size of one of the village sites recently discovered, which was mapped last summer, which appaars to have comprised 19 households. This very tentative observation suggests an organized group related to a caribou corral of more than 100 individuals. Now, I should enlarge on that estimate. This is based on the assumption that there was one nuclear family per dwelling unit. The traditional pattern often had two nuclear families in a single dwelling unit, and if this pattern prevailed at that particular village then there would be up to 200-odd people in that community. These communities are inferred to have been organized under central direction because the

encampment appears to have been responsible for the operation of a nearby caribou corral. The construction and maintenance of which alone would require the wisely directed efforts of at least three or four, and optimally at least up to a dozen men. This interpretation is supported and amplified by the fragmentary but internally consistent evidence of oral history from the Old Crow people.

MR. VEALE:

Q Dr. Irving, if I may interrupt, I was wondering if you would refer to one of the maps indicating the location of the caribou fences?

A Yes. On -- perhaps I should describe the maps and thatwill make it easier to find our way around in a moment. There is one base map with the black dots on it, which represent archaeological sites, there is -- and that's entitled:

"Prehistoric Era,"

superimposed on that are grayed-in sections which pick out site concentrations of particular interest. Then there is a map with an overlay which shows the prehistoric era, the historic period, and superimposed on this are the caribou fences or caribou corrals that we have located. These are indicated by "U"s as shown by the legend down in the lower left. There are a few additional sites indicated on that map and then the final map adds to the two preceding ones, the distribution of the principal fossil vertebrate localities abng the Old Crow River and the middle part of the Porcupine River.

THE COMMISSIONER: That third map with the shaded in area along the banks of the Old Crow River and the Porcupine, and the confluence at the present site of Old Crow, when you say "the fossil localities" do you mean that all along the banks of those two rivers you found evidence of encampments in ancient or prehistoric times?

A The third map shows the distribution of concentrations of fossiled vertebrate remains. There are so many of these that it would be difficult to map them individually. There are some 150 within the shaded area, and some of these are of archaeological interest. I'll mention this a bit further on. Some are purely of zoological interest.

Q Do you want to pass that around among counsel? The horseshoe shapes, I take it, are the caribou fences.

A Those are the caribou fences, yes. Those are the ones we have seen. We have some information on additional ones, that we haven't yet located.

Another observation emerges from our accumulating evidence. We find archaeological sites that represent Kutchin activity in other parts of the Old Crow area as well, in addition to those of the caribou corrals and our ethnographic information tends to confirm the interpretation that the 19th century and prehistoric peoples occasionally departed from the optimal subsistence pattern, presumably because they had to. In other words, sometimes the caribou or the fish did not come as predicted so alternatives had to be sought.

Now, I believe this is quite important. Our archaeological evidence does not show it clearly but it is certainly consistent with the ethnographic evidence to say that the 19th century Kutchin needed a very large range of hunting territory to provide security against those times when in certain localities there was literally nothing to eat.

From this, it is hard if not impossible to reconstruct accurately the 19th century demography and details of Kutchin land use. At present, it must suffice to say that each group of 100 or possibly 150 up to 200 probably ranged normally regularly over many hundreds of square miles and also depended on the option of moving within an area of several thousand square miles in times of need.

The question of land tenure in prehistoric times cannot be approached directly with the evidence that we now have. However, it is clear from our ethnographic data drawn from such informants in Old

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Crow as Joe Kikavichik, now deceased; Charlie Peter Charlie and others, that individuals held such important facilities as the caribou corrals in trust as it were for the community that depended on them. This, I believe implies the recognition of the right of usufruct.

The formalization of this relationship between the people and the resources of the land is exemplified by a series of "owners" and that should be put in quotes, of the Thomas Creek caribou corral reported to me by Joe Kikavichik. The corral was "owned" by six named individuals prior to its abandonment in about 1899. Now, I estimate that each owner or perhaps he should be called a custodian, served in this capacity for an average of ten years and that the fence was in operation continuously from at least as early as 1840.

This early data is consistent with my observation of logs that had been cut with a stone adze or an antler wedge rather than a metal tool in the cache associated with the fence. I infer that metal axes came into common use between the founding of Fort Good Hope in 1823 and the establishment of Fort Yukon in 1847. They may of course have been introduced a little earlier by Russian traders in Alaska.

The fact that there are at least nine other caribou corrals in addition to that at Thomas Creek shows that the caribou corral and by implication, continuing exclusive right to certain resources such as caribou, wood , other game and fish

within a specific area were recoginized as basic elements of Kutchin social and economic life in the 19th century.

The time in prehistory when caribou corrals were first introduced cannot be ascertained. However, we do know that the corrals were used primarily during the fall migration of caribou and that the spring aspect of the annual cycle of activities was oriented toward places along the Porcupine River where northward migrating caribou would customarily cross. Now, what I am addressing now is the annual cycle of activities which is in a sense a systematic cycle in which all of the parts are interdependent. That is, if you happen to miss out on the spring part completely, you are done for. You do not survive to pick up the fall part unless you have an alternative. The reason for stressing this I hope will become clear in just a moment.

That the spring aspect of the annual cycle of activities was oriented toward places along the Porcupine River where northward migrating caribou would customarily cross. Thus the year's activities were polarized in spring at the river crossing and in fall at sites along the migration path mostly through the British and Richardson mountains.

We can say with confidence that the spring river crossing sites were used regularly by large groups of Kutchin from prehistoric times until the present. The very large site at Klo-Kut near Old Crow as related by me and by R. E. Morlan and published by Morlan in 1973 was used thus for at least a thousand

years until about 1900.

It is not unlikely that the fall migration paths through the British Mountains where most of the caribou corrals are found was used for the same length of time by the same people who camped and hunted in spring at Klo-Kut. INdeed, the density of archaeological sites in the mountain area shows that it was and has been important to hunters for many thousands of years. However, there is no direct evidence for the construction of caribou corrals there prior to about 1840.

The evidence on which the foregoing statements are based is contained in the publications and reports which have been placed at the disposal of this INquiry. Attention is drawn also to the graphic illustration of archaeological sites in the Old Crow area, copies of which are placed on record and to the bibliographies attached to the publications and particularly to a 1976 publication by Jacques Cinq-Mars -- C-i-nq--M-a-r-s -- called "Preliminary Archaeological Study of the Mackenzie Corridor", Final Report 1976. This is in the ALUR series with a code number 74-75-92. This is a DINA land use study.

MR. VEALE:

Q That particular report hasn't been filed with the Inquiry at this time?

A No. It has just come out and I don't have copies myself at this point. It should be available through normal government channels.

MR. STEEVES: Are you referring to Cinq-Mars' report?

A I'm sorry?

Q Are you referring to Cinq-Mars' report?

A Yes. That has a complete listing of all the archaeological sites in the area and bibliographies.

A matter of major concern to archaeologists, and also to the people of the Yukon, particularly in this case the people of Old Crow, is the vulnerability of archaeological sites to disturbance or destruction by industrial activity.

The fact that there are many archaeological sites in the Old Crow area, some of which are extremely interesting, is amply demonstrated by our research to date, and illustrated on maps that have been prepared for this Inquiry. Thus far -- well I'll refer you first to the map which says simply,

"Prehistoric Era"

on the front here, which has the 165 sites that we have located so far, including the 29 that were found during the last summer's season. Now, it will be noted that the sites tend to cluster along rivers and in certain parts of the Old Crow Flats margin region, but this should be interpreted very carefully because -- well, we've searched carefully for sites and only a very small portion of the Old Crow area, and it is quite certain that a great many archaeological deposits still remain to be discovered. It is safe to predict that some of those that we will discover in the next few years will equal or exceed in importance those that we know of now. This prediction in fact is one of the major premises on which the Northern Yukon Research Program is based.

In my previous testimony at Old Crow I mentioned the partial destruction of the Klo-Kut site, by the construction of a winter road

across it in the season of 1969-1970. This happened in spite of an assurance in 1969 to me by the Territorial engineer that the road would be routed around the site and in spite of advice to the road-building crews by the Chief of Old Crow and others, that the site was there and that other equally convenient routes could be used. Photographs placed on record give some indication of the damage, and I'll refer to these 8 x 10 photographs here. That designated "A" gives a view of the trench cut through the steep cut bank which went to a depth of about four feet, which is the approximate lower limit of clearly recognizeable archaeological material. If you turn to 4-B you have the same view closer up and you will notice some white specks or fragments, and these are caribou bones which have been used for food and broken up and are left lying around as part of the middendebris; caribou bones in themselves are not of particular interest. There are numerous artifacts lying around among them which you cannot see in the photograph. Their provenience has been destroyed completely, that is it is no longer possible to study the stratigraphic relationship, there is nothing very interesting that can be done with this information.

The third photograph shows (although not very clearly) a fireplace, a hearth, marked by light colored ash about the centre of the photograph with a hunting knife sticking in it, which has been disturbed by normal clearing of woods growing over the site.

THE COMMISSIONER: The third photograph is this one with no humans in it.

A That's right, with no one in it. There is the hearth there.

Q Yes. Why don't you mark them?

A Believe it or not, they are marked.

Q They are? Oh.

A Well, the lessons to be learned from this are that officials cannot always control the activity of field crews, however strong their intentions to do so may be, and further, that wherever industrial activity is going to take place, the likelihood that archaeological evidence will be disturbed and thus rendered less useful is very great, if not inevitable.

Now somewhat paranthetically but still to the point, it's not only bulldozers and construction activity that destroy sites. Survey crews, as an instrument of industrial activity, in the course of their work, often happen upon graves, old campsites and other features of archaeological interest which they usually examine and sometimes pillage. I should not restrict this to survey crews. Any crews of any sort, if they're working in the country. Although pillaging and even the examination of such sites are both against the law, many sites are destroyed or at least disturbed each year in this manner, but it would be very difficult to say just how many.

Now, while we consider

archaeological sites to be of special concern to scientists, Yukon residents, and Canadian society, the importance of sites that yield vertebrate fossils should not be overlooked. There are about 150 of these in the area under consideration. I have indicated on this large map the region of the greatest concentration, but vertebrate fossils are found in many localities along the major rivers and throughout this area. Thus far they have yielded some 30,000 specimens, deemed worthy of taking back to one museum or another, of such animals as mammoth, mastodon, horse, bison, camel, giant beaver and a host of others that are now extinct. By far the greatest number of specimens come from mammoth, horse and bison. The other species are relatively rare, so although the number of specimens in our collections is large, we still probably are far from having a complete inventory of the animals that once lived in the Old Crow region. I should add that we are still far from understanding the zoological history of these animals, but there are -- there's a minimum amount of stratigraphic and chronological information on them so far. We hope to improve on this very significantly over the next three or four years.

Of very great interest and importance is the fact that among the vertebrate fossils we find bone implements, which include the oldest known tools now known from the Western Hemisphere. This is one of the primary foci of our current research.

What I have said so far applies specifically to the Old Crow region, a region of some

four to 5,000 square miles. We cannot make similarly clear statements about surrounding areas, for example the Coastal Plain of the Richardson Mountains because these areas have not been studied in the same way.

On the Coastal Plain, work by MacNeish and Gordon, and by ourselves with the assistance of Canadian Gas Arctic Ltd., shows that whereas some interesting sites and at least two very important ones in the site clusters at Engigtsciak on the Firth River and at Trout Lake on the Babbage River, are located there, we still do not understand the area well enough to estimate its potential for research. There is evidence that the area was utilized by both Inuit and Kutchin, and by most of the older cultures represented in our collections from the Old Crow region. In addition, at Engigtsciak on the Firth River there are cultures, for example the Norton-related Cliff phase and Herschel Island Thule, described by MacNeish in 1956, which have not been found in the Old Crow area. Engigtsciak, Trout Lake and the still poorly known sites at Herschel are of outstanding importance for future research. However the citation of these should not be taken to mean that there are not others of equal or greater importance. We simply do not know what is in the Arctic Coastal Plain apart from these principal site clusters.

In summary, I can make some fairly clear statements based on published research completed to date which have some relevance to this Inquiry. These will be refined by future research but I doubt very much that they will be altered significantly.

1. In the Old Crow region, indeed, the entire northern Yukon there is extraordinary potential for archaeological and paleoenvironmental research. The field evidence is highly vulnerable to destruction both by construction machinery and by vandalism.

2. Research completed and published shows that:

1. Man of some kind was present in the northern Yukon at least 29,000 years ago.
2. For the last thousand years or more ancestors of the modern Kutchin residents of Old Crow have lived in the Porcupine River drainage.
3. Very large territories were needed to support relatively small numbers of people until quite recently. I should add parenthetically to that, that the need to exploit very large areas continues for those people who are still dependent, at least in part, on hunting in the Old Crow area, and it's not unusual for hunters to travel now as much as three days up the Porcupine River by outboard motor for their fall hunting.
4. Kutchin society was highly organized for social, economic, and subsistence activities.
5. Kutchin culture provided for individual but at the

same time, responsible ownership or custodianship of important subsistence facilities. By implication, the owners claimed the right to the resources of specific localities which they were morally obliged to share with their adherents.

Our research does not yet document fully or in any way satisfactorily the changes in Kutchin culture and the society that have occured as a result of contact with Euro-Canadian society and culture. These, obviously, have been profound and it's my impression that they are continuing.

That is the end of my statement.

THE COMMISSIONER: Dr. Irving, the Ice Age as I understand it did not result in the occupation of the northern Yukon by ice. In that, I understand, the Northern Yukon is unique in that it was never glaciated. Is that something that bears on the fact that you have made these observations in the northern Yukon apart from its proximity to the Bering Strait where, presumably, man first entered the hemisphere.

Could you comment on that? Am I on the wrong track?

A No, you are quite on the right track. It's a unique place in Canada. There's only one other unglaciated portion of habitable Canada. In southern Alberta, there's another place on the Banks Island and may be a few others in the Arctic islands but as far as suitable large areas for human habitation are concerned, this is about the only one in all of Canada that was never glaciated. The Continental glacial ice

came up to the Richardson Mountains but not across them into the Old Crow and Porcupine Basin area.

Q So that the ice covered the delta and the Mackenzie Valley but not the northern Yukon?

A Not the northern Yukon, no. Not the interior part. The coastal plain was touched by ice but not the interior.

Q Well, the -- you say that in the Old Crow area you have found the earliest evidence of man's entry into the western hemisphere, 29,000 years ago. In addition, you say that in that area, you have found the oldest tools in the western hemisphere. Those are the terms of antiquity, the two main discoveries that have been made so far.

A Yes. I'm referring in each case to the same pieces of evidence.

Q Oh, I see. The tools are evidence of man.

A That's correct, yes.

Q I see what you mean. O.K. That's the bone used to flesh caribou, is that --

A That's the most compelling piece of evidence. The other broken bones are equally, if not more interesting to archaeologists, but not yet to everyone else.

THE COMMISSIONER: Cross-examination.

MR. HOLLINGWORTH: I have no questions.

MR. BELL: I have no questions.

MR. GOUDGE: Mr. Steeves?

MR. STEEVES: I have no questions sir.

CROSS-EXAMINATION BY MR. GOUDGE:

Q Dr. Irving, picking up on the question the Commissioner asked you, there's no doubt that the unglaciated nature of the northern Yukon makes it particularly fruitful from an archaeologist's point of view?

A Yes, that's correct.

Q Can we draw the corollary from that that the glaciated area of the valley -- the Mackenzie Valley and the delta makes it equally unlikely to be fruitful for archaeology?

A I think that would be a very risky corollary to draw. You have to bear in mind that archaeology is very much dependent on the luck of preservation and the luck of discovery. It is entirely possible although it may be less likely, that interesting very early pleistocene material will be found in glaciated sections. If so, then that discovery would turn out to be at least as interesting as those that we are making in the Old Crow region.

Q You say less likely though?

A I think less likely. On the other hand, possibly yet more interesting, if it were found.

Q Yes, I take it the report by Mr. Cinq-Mars, if I pronounce his name correctly

identifies known sites along the valley. Is that what I understood you to say?

A Yes.

Q Is that done on the basis of field work?

A Yes. Field work and reference to the literature as well.

Q Yes. Does that report or does the literature on which it relies allow us to draw any conclusions about the length of land use that those archaeological sites speak to?

A In what area?

Q Well, your research as you say in your conclusion, allows you to draw the conclusion that the ancestors of the modern Kutchin have been in the area of Old Crow for at least the last thousand years. Does the Cinq-Mars report or the literature on which it relies permit similar conclusions about any areas of the Mackenzie Valley?

A That's a very broad question and it takes in a vast piece of territory. I would say, in general, probably it does, but I would not like to make a flat, definite statement about that.

(QUALIFICATIONS AND EVIDENCE OF DR. WILLIAM IRVING MARKED AS EXHIBIT #608)

(RECENT EARLY MAN RESEARCH IN THE NORTH, W. N. IRVING, 1971 MARKED AS EXHIBIT #609)

("UPPER PLEISTOCENE RADIOCARBON DATED ARTIFACTS FROM THE NORTHERN YUKON, W.N. IRVING & C. R. HARINGTON, 1973, MARKED AS EXHIBIT #610)

(NOPTHERN YUKON RESEARCH PROGRAM, UNIVERSITY OF TORONTO MARKED AS EXHIBIT #611)

(NORTHERN YUKON RESEARCH PROGRAM, 1975-76

A. DIRECTOR'S REPORT

B. ASSOCIATE DIRECTOR'S REPORT OF FIELD & CURRENT ACTIVITIES

C. NORTHERN YUKON BIBLIOGRAPHY, 1974

D. PALEAOBOTANY, J. C. RITCHIE AND L. CWYNAR

E. FAUNAL ANALYSIS, H. G. SAVAGE.

MARKED AS EXHIBIT # 612)

(NORTHERN YUKON RESEARCH PROGRAM PERSONNEL MARKED AS EXHIBIT # 613)

(NORTHERN YUKON RESEARCH PROGRAM 1976-77 MARKED AS EXHIBIT # 614)

(ELEMENTS OF SUBSISTENCE SYSTEMS OF THE YUKON KUTCHIN. McFEE, R.D. NORTHERN YUKON RESEARCH UNIVERSITY OF TORONTO, MARKED AS EXHIBIT # 615

(PHOTOS (3) OF KLO-KUT SITE WHERE ROAD PUT THROUGH MARKED AS EXHIBIT 616)

(MAP: PREHISTORIC SITES MARKED AS EXHIBIT #617)

MR. GOUDGE:

Q I think, sir, just so the participants will know, we will undertake to a copy of that report and file it. It's just come out and I think it would be useful to our endeavors.

You say in reference to the problem presented by construction and development for archaeology, that control is difficult and you look to the Klo-Kut example as one of the more unfortunate experiences. To be fair, isn't it so that the Klo-Kut example was not one of a snow road but rather of a cut road in the wintertime?

A It was meant to be a snow road and it turned out to be a cut road.

Q And it was the fact that it was cut that caused the archaeological damage.

A That caused some of the damage, but on the other hand the road went across an area of the site that afforded the possibility of studying the natural return of vegetation to a site that had been abandoned for, in one place about 70 years, and in another place 150 years, and another place perhaps three or 400 years, and it literally wiped out the standing vegetation along that part of the site and made that study impossible. It also, even though it was not intended to be a cut road, actually the dozer blade went down somewhere between six and eight inches below the moss surface and as this photograph "C" indicates, it disturbed a certain amount of late prehistoric or early historic, we don't know, archaeological campsites.

Q Sir, you've had as one of your sponsors, Canadian Arctic Gas, and I take it are familiar with some of the plans they have for archaeological preservation along their proposed route. Is that so?

A Yes, to some limited degree.

Q Do you view it as archaeologically viable to have archaeological expertise at the survey stage to identify archaeological sites for either re-routing purposes or advance preservation purposes?

A The question you ask is one that might elicit an entire philosophy on conservation of archaeological materials, and I don't think that's really what you want me to give. I think that if it is necessary, and this is not an archaeological decision, to build a pipeline through a given area, then it should, in my view, be acknowledged as highly desirable if not necessary to conduct a survey for archaeological sites as soon as possible and it should be carried on in the context not simply of recovering objects, but in the context of research and the potential for a contribution to scientific and humanistic knowledge, that exists in the area.

Q Let me ask you, in terms of particular methodologies that might be adopted by the pipeline company to accommodate archaeological sites, re-routing has been suggested to us as one possibility. Is that one question that I'd like your

view on, is whether that is viable in light of the kinds of sizes we speak of for these sites. When you speak of an archaeological site, what kind of size are you speaking of?

A This varies considerably from an area of a site perhaps 20 feet in diameter to, for example the Klo-Kut site on the Porcupine River which I guess may be as much as a mile long and 30 or 40 yards wide, but which is related to other sites that are nearby, so that the whole -- oh, I'd say ten miles from the mouth of the Crow River going up the Porcupine on the right bank or the left bank going up, should be considered as archaeologically significant. So if anything is going to take place in that area we either should dig it up or re-route the activity around that site.

Q Around that area which is somewhat around a mile in terms of length, about a mile.

A Well, I would say that Klo-Kut in particular, with its immediate extensions into sites that happen to have other names but are really just extensions of that site, that amounts to about a mile of river front, but other sites adjacent to it still further on, perhaps half a mile or a mile further on, extend for five miles and three miles, about five miles in either direction from Klo-Kut. So that the entire locality is vulnerable.

Now I think that another large site is that at Engigtsciak on the Firth River and this, as I recall, is about -- well, roughly a quarter

of a mile one way and half a mile the other way.

Q Where is that site on the Firth River?

A About 20 miles up the river. I think it may be four or five miles -- three or four miles, something like that from one of the proposed pipeline routes.

That site is highly vulnerable because it's next to a very prominent bed rock feature which can be seen for miles and everyone out for an afternoon joy ride on his bulldozer is going to come over there and look at it.

Q You say that you're still not in a position to understand the area well enough to estimate its potential for research. How far are you from being in a position to understand it? Are you at the very beginning of your research of that area? Are youyears away from it?

A If I could tell you exactly how far I am from it, then I would know how togo about the research. I can say that we know something about the distribution of certain archaeological sites. We've picked out some site clusters there. We improved our knowledge of the region last summer considerably. There is a series of sites over in the easternmost part of that area that bear further looking into. It's impossible for me at present to describe an annual cycle of activity for any particular point in prehistoric time as I can for the late prehistoric Kutchin of Crow Flats as I've outlined here. I can't

do that for the coastal plain region except possibly for the whaler period, 1900, roughly.

Q And lastly, sir, let me ask you one or two questions about the specific subject of caribou fencing, caribou corrals. Your view is that they were a kind of trust held by an individual for each particular band or tribe, is that so?

A Yes.

Q Do you have any theory as to how the trustees were selected?

A I have some peripheral knowledge but I think that other witnesses here would be much better commentated on this. There is some indication that the inheritance was from a man to his son, or a nephew, but how this relates to the pattern of descent and the inheritance of other things, I don't know. This is one of the objectives of our research which I hope to encourage people to look into, but we just haven't figured this out yet.

Q One last question, Dr. Irving, and that is, do you have any comment on the comparative archaeological richness of the Alaska Highway area by comparison with the Northern Yukon?

A No, I think that would be unwise. The Alaska highway material has not been published; they have gone after their salvage problems in a way that is very different from the way we have carried on our survey and research, so that I don't think the two situations are usefully comparable.

MR. GOUDGE: Thank you. Those are all the questions I have, doctor.

THE COMMISSIONER: Dr. Irving, I noticed that in 1975 you were co-chairman, All-Union Symposium, a Correlation of the Ancient Cultures of Siberia and Adjoining Territories of the Pacific Coast, Academy of Sciences, U.S.S.R., Novosibirsk. Are the Soviet archaeologists carrying on work corresponding to your own that would sort of give us the first half of the story? That is the progression of the peoples who entered the New World from the old. Is there any sort of correlation? Well, it says "correlation" here, is that what is happening?

A That's what the symposium attempts to do and there was a lot of interesting work in Siberia. It's interesting that the kinds of evidence at which we are looking most closely in the Northern Yukon and elsewhere in Alaska is by and large, has not come to the attention of Russian archaeologists in Siberia. They had been skeptical of the nature of our evidence, they read about it in literature; but when we showed them the actual specimens, they almost to a man showed that they recognized the material and I'm pretty sure that we'll hear from them in the very near future that they are finding material that is comparable.

Now, they do have sites that range back to 35 and possibly 45,000 years. But these are not directly comparable to any material that we now have in the Yukon or Northern Alaska, so we're left to wonder about the precise nature of relationships between the two areas. We just haven't gotten to a satisfactory correlation yet.

Q Just one last thing before you leave us, there was a witness here yesterday, Dr. Simpson who spoke about the technology of indigenous peoples, a way of looking at the light of indigenous peoples that I don't think often occurs to those of us who are products of western culture and civilization.

The other night on television I saw you telling us that the passage through the northern Yukon and the development of a way of life allowing people to survive there was a technological feat comparable in its magnitude to the landing of astronauts on the moon. That's a comparison that would not, I suppose, have occurred to me if I hadn't heard you put it that way on television, but do you want to comment on that further before you --

A Well I -- it occurred to me in thinking about possible comparisons that this might be apt because let's not take away from the Apollo people or the moon astronaut people, but they were operating with a back-up of an entire civilization in effect. Certainly, the Nassau organization must involve something on the order of a million people, if you take all its ramifications and the specific training facilities for the astronauts themselves, to say nothing of all the technical people involved and the scientific people, are an almost mind-boggling agglomeration of highly organized activity.

The people who moved from north China up to Bering Straits did so in simple family, small family groups presumably, going through several

different environments and environments that we still consider to be among the most formidable occupied by man. They did so comfortably and with a minimum of hardware and so what they were using was software, that is, their intelligence and knowledge of the surroundings, the knowledge of the environment.

I find this quite impressive; that people can pass from north China to the northern Yukon and presumably into southern North America without leaving very much in the trace of technological hardware behind. They did it all with the knowledge in their heads.

In the case of the Old Crow material, they did leave behind a great many broken bones. These things are usually decomposed in other parts of the world. There, they happen to be preserved in permafrost.

The idea of people who are not specifically under the tutalage of a battery of specialists, going off to explore an entirely new environment even though it took place perhaps over several generations, implies to me both a feat of exploration and of intellectual capability that is fully comparable with what any group of individuals, say astronauts or for that matter, 18th century British naval explorers did.

THE COMMISSIONER: Well, thank you very much Dr. Irving. We appreciate your attendence, and appreciate someone of your distinction being kind enough to assist us in our work here. So, thank you

very much sir. Is it time for another coffee break? Well, we'll break for coffee and then hear your next witness.

The three maps submitted by Dr. Irving and the three photographs should be marked as exhibits.

(PROCEEDINGS ADJOURNED FOR A FEW MINUTES)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR.GOUDGE: Before we begin the next panel, I discovered at the break that Dr. Irving has some experience or some knowledge of the Alaskan experience in connection with archaeology that I would like to question him about, with your permission, sir.

CROSS-EXAMINATION BY MR. GOUDGE(Continued):

Q Dr. Irving, I take it you're acquainted with a number of archaeologists who have done work in connection with the Alaska oil pipeline is that correct?

A Yes, I am.

Q I wonder if you could describe for us through your discussions with them the methods that are employed on the Alaska Pipeline to preserve, where possible, archaeological finds?

A I should point out first that I have never examined or taken part in this work myself, and what I know is entirely based on what I hear from a few of the archaeologists directly involved -- John Cook, the director, and Bill Workman, another director of the operations along the Alaska Alyeska Pipeline.

The requirements of the State of Alaska, and I think of the U.S. Federal Governm ent stipulates that archaeological remains be recovered, if possible, before construction takes place, and that this is the responsibility of the,financial responsibility of I believe the pipeline company. How this is stated

precisely, I'm not sure, but what it has resulted in is the employment under contract of an archaeological cadre based at the University of Alaska, another one at Alaska Methodist University to supervise the salvage of archaeological remains along the pipeline route. This cadre I would guess involves about six or eight professional people at the University of Alaska, and it's augmented during the summer by archaeological crews that may go to as many as 60 or 70 people. I'm not sure of these figures, but they are approximately correct.

Their mode of operation is complex and it is encumbered by the need for working around the activities of the pipeline construction crews. Initially surveys are carried out along the pipeline route;before any engineering surveys are carried out, if possible, some of the work can be done in certain areas where the snow has blown free as early as March or April, and as many sites as are possible that may be endangered by pipeline activity are located and if important ones are found, their excavation begins immediately. Then with the engineering survey crews, there is usually an archaeologist on hand to look further for sites as clearing of the brush takes place, and important sites are evaluated and those that are important are excavated. Then there is more or less continuing monitoring of the major construction activity for the discovery of archaeological material that may be uncovered in the course of digging or clearing of land.

That's the general pattern of activity. Now there has been very little lead time in which to plan this work, and the planning has grown up with the work itself. This has been a very serious drawback to the way the work has been carried out. It is difficult to evaluate the results because the material has not yet been published, and the preliminary reports, the informal reports suggest that some extremely interesting and very important sites have been found which would not have been found had the pipeline work not been carried out in conjunction with archaeology. Those that I refer to would have been destroyed had there not been archaeologists present to recover them.

Q Have you formed any views on any weaknasses in this process that might be avoided were a Canadian operation of a similar kind to take place?

A The first consideration is to give the archaeologists enough lead time. I think that archaeological research requires many years to develop properly. Any kind of salvage operation is going to be second best to optimal research. But it can be improved if there is -- if archaeologists are given enough time to carry out preliminary surveys and to do their preliminary analyses, and synthesize their results, and get some understanding of the research potential of the area through which the pipeline or highway or whatever, is going to pass.

In my view, the objective should be to recover as much of the scientific and humanistic cultural information and understanding as

possible, and that anything short of that is less than optimal.

Q Do you know whether the archaeologists on the Alaska project have any power to curtail construction operations?

A They do, I think it is the -- how it works executively and administratively, I'm not quite sure, but in the event that there is an extremely important archaeological site and the bulldozer poised next to it, if there is somebody, if there is an archaeologist present and someone who will -- to whom the bulldozer operator will listen, then work can be stopped for two or three days or a week or -- it's a thing that is negotiated between the archaeologist and the engineers, in the field situation and it requires a good working relationship between the archaeologists and the field engineers. Without that there is no hope of getting any good work done.

Q Are these archaeologists in the employ of the pipeline company, or of the government inspection agency?

A They are under contract to the pipeline company.

Q In your view is that preferable or less preferable than having them under contract to an inspection authority?

A My impression is, and it's not a very carefully thought out view, is that this would be preferable. If they were employed by the

government, as for example inspectors, that would put them in sort of an adversary relationship to the engineers and I think that might not be very productive. There has to be some kind of supervision in addition to the -- well, someone, if the objective is to comply with legal requirements, then someone has to check on this, someone in addition to the people actually doing the work. There has to be some monitor. But the actual carrying out of the salvage work, I think if it is properly set up and designed, could be, might well be carried out best by archaeologists under contract to the pipeline or other construction company.

MR. GOUDGE: Thank you, Dr. Irving, very much. Those are all the questions.

(WITNESS ASIDE)

MR. VEALE: Mr. Commissioner, the next panel of witnesses presented by the Council for Yukon Indians is composed of four witnesses, and beginning from left, Julie Cruikshank, Dr. Catharine McClellan, Johnny Johns, and Joe Jacquot. Their evidence and qualifications have been filed with the Inquiry, and I would make one addendum to that. On page 25 of the joint evidence of Julie Cruikshank and Dr.McClellan had seven footnotes which were not in the filed copy, and I have now filed those seven footnotes with the secretary to the Inquiry.

I propose at this time to lead evidence of the qualifications of all panelists and then proceed to have each panelist read their evidence in turn.

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JULIE CRUIKSHANK,
CATHARINE McCLELLAN,
JOHNNY JOHNS, sworn,
JOE JACQUOT, resumed:

DIRECT EXAMINATION BY MR. VEALE:

Q Julie Cruikshank, you received your Bachelor of Arts in Anthropology in 1967 at the University of Toronto. Is that correct?

WITNESS CRUIKSHANK: Correct.

Q And in 1969 you received your Master of Arts in Anthropology at the University of British Columbia.

A Yes.

Q You've listed a number of publications in your resume, and I would simply highlight some of them. You have written a book entitled:

"Through the Eyes of Strangers, A Preliminary Survey of Land Use in the Yukon Territory In the Late 19th Century."

You have also been involved in a book entitled:

"Their Own Yukon: a Photographic History by Yukon Indian People."

A Yes.

Q And you have written a document entitled:

"Early Yukon Cultures,"

prepared for the Department of Education of the Yukon Territorial Government.

A That's correct.

Q And in the course of previous employment, you have been a research associate

with the Canadian Research Centre for Anthropology, Ottawa.

A Yes.

Q You've been a research assistant with the Institute of Social, Economic and Government Research, University of Alaska, College Alaska.

A Yes.

Q And you have also been a researcher field worker for the Yukon Native Brotherhood in Whitehorse, Yukon Territory.

A Yes.

Q And more recently you have done research under contract to the Yukon Territorial Government through the Yukon Archives preparing material dealing with Yukon Indian history.

A Yes.

Q At the present time, I understand that you are employed by the National Museum of Canada in collecting biographies of older native women in the Yukon Territory?

A That's correct.

Q Dr. McClellan, I understand you received a degree, an A.B., as it's called in the United States in classical archaeology in 1942 from Bryn Mawr College?

In 1946 to 1950, you did graduate study in classical archaeology and anthropology at the University of California.

WITNESS McCLELLAN: That's right.

Q In 1950 you obtained your Ph.D. in anthropology at the University of California.

In sum of the -- you have a very extensive resume and I will highlight some of them. In 1952, you were an assistant Professor of Anthropology at the University of Missouri?

A Yes.

Q From 1952 to 1956, you were assistant Professor of anthropology at the University of Michigan or Washington, I'm sorry.

A Not, Michigan, Washington.

Q You were also assistant Professor of anthropology and chairman of the Department of Anthropology at Barnard College from 1956 to '61.

A That's right.

Q From 1961 to '65 you were the associate -- an associate Professor of anthropology at the University of Wisconsin and presently you are Professor of anthropology at the University of Wisconsin and have been so since 1965?

A Yes.

Q Some of your research activities are in 1948 and '49 you were the Chief of an ethnographic field party for the National Museum of Canada in the southern Yukon Territory.

A That's correct.

Q In the 1949, you did research on natives of the Mackenzie and Yukon drainages in the archives of the Hudson's Bay Company at London, England.

I also understand that in the summer of 1966, you returned to do ethnographic research in the Yukon Territory once again.

A Yes.

Q In 1968 in the winter of that year, you did field research in the Yukon Territory supported by a contract from the National Museum of Canada.

Among the publications and articles that you have published I understand you are published in such journals such as the "Southwestern Journal of Anthropology", "Anthropological Records", "Arctic Anthropology", and you have also published in 1975 a two volume book entitled "My Old People Say", which is an ethnographic survey of the southern Yukon

Territory and that relates to all the field research that you conducted in the Yukon Territory.

A It doesn't cover my later research. I was Aishihik in 1962-63.

Q Are you planning a third volume?

A Yes, I am.

Q I also understand that you have an unpublished manuscript, 1950, entitled "Cultural Change and Native Trade in the Southern Yukon Territory", your doctoral dissertation.

A Some of that's incorporated in "My Old People".

Q I see. I understand that you are also a Fellow of the American Anthropological Association, the Royal Anthropological Institute of Great Britain and Ireland and the American Association for the Advancement of Science and the Arctic Institute of North America.

Mr. Johns, I understand that were born on July 10, 1898 Tagish, Yukon.

WITNESS JOHNS: Right.

Q -- which is a community south of Whitehorse in the Yukon Territory.

A Right.

Q That you spent your early years trapping with your parents, attending school on and off in the winters.

A That's right.

Q I also understand that in

1917 you went into the guiding and outfitting business and you have owned your own guiding and outfitting business for a period of fifty years.

A Right.

Q I understand that you at various times have cut wood on riverboats, ran a mink ranch and guided R.C.M.P. patrols.

A That's right.

Q More particularly, that on the sixth of May in 1942, you were hired as a guide for the United States Army in assisting them in the construction of the Alaska highway.

A That's right.

Q At a later date, you constructed a hotel along that highway at Milepost 872.

A That's right.

Q Presently I understand that you are a negotiator for land claims for the Council for Yukon Indians.

A That is right.

Q Mr. Jacquot, I understand that you were born on June 21, 1928 in Whitehorse in the Yukon Territory?

WITNESS JACQUOT: Correct.

Q And that you were raised at Burwash Landing which is a small community to the west of Whitehorse along the Alaska highway.

I also understand that after you completed your schooling you assisted your father in

running a trading post and a big game guiding operation at Burwash Landing and I also understand that you have been the president of the Yukon Association of Non-Status Indians and that presently you are a negotiator for the Council for Yukon Indians.

A Correct.

Q Mr. Commissioner, the evidence of Julie Cruikshank and Dr. McClellan is complied in one document and they will read at various times. There is also a second document which has been filed with the Inquiry and that is a report by Julie Cruikshank prepared for the Council for Yukon Indians and that evidence will follow the evidence of Julie Cruikshank and Dr. McClellan.

Would you proceed to read now, Dr.McClellan?

WITNESS McCLELLAN: I'll start by reading about the first half of the document -- of our joint document.

What social consequences did the construction of the Alaska highway have for the native Indian people living in the southern Yukon Territory during the 1940's and later? We ask this important question because we believe that many of the undesirable things that happened to the natives because of the highway will also happen if a gas pipeline is built through the southern Yukon.

The Alaska highway was built in a relatively isolated area inhabited mostly by native people. It was constructed by a large imported labor

force. The construction phase was extremely rapid. Short-term jobs were provided for some natives but by the time the construction phase was over and the boom had ended , major and irreversible changes had occurred in the lives of all natives who lived near the highway route; changes in their traditional annual cycle, settlement patterns, sources of subsistence and cash income, social organization, education, health conditions, and alcohol use and perhaps, most far reaching of all, in the strength of the value system that had earlier woven the complex strands of living into a coherent whole.

A brief survey ofjust a few of these major changes will show how greatly they reduced the quality of life for the native people. We believe that the construction of a gas pipeline in the southern Yukon will inevitably bring further changes of the same unwelcome sort and without the few ameliorating advantages which came with the highway. In short, we see disturbing parallels between the known consequences of the building of the Alaska highway and the probable consequences of building a gas pipeline in the southern Yukon.

THE COMMISSIONER: Excuse me, Dr. McClellan.

A Yes.

THE COMMISSIONER: Mr. Veale, I take it from what Dr. McClellan has just said, that the paper that Miss Cruikshank and she are presenting is to deal with the situation that would arise if it were proposed to build a pipeline -- a gas pipeline along the Fairbanks route.

MR. VEALE: Well Mr. Commissioner it is also evidence relating a case example of a large scale development similar to the pipeline construction wherever built.

THE COMMISSIONER: Yes, of course. Of course. I'm sorry, go ahead.

A Yes, perhaps I should have sort of told you that the title was "A Preliminary Investigation of the Social Impact of the Alaska Highway on the Yukon Indians".

THE COMMISSIONER: Well, I should have read it anway.

A It probably parallels to the impact--

MR. STEEVES: I'm sorry. I don't quite understand what Mr. Veale says. At the bottom of that first page, it refers to building a gas pipeline in the southern Yukon.

THE COMMISSIONER: Well, that's -- that would be the Fairbanks route but I see your point, that this is a case study of the impact of a large project upon native people in the southern Yukon during the war and the post-war years and that experience may be applicable to the Arctic Gas pipeline across the northern Yukon, down the Mackenzie Valley or in the southern Yukon.

So, let's proceed on that footing and --

A Yes. Well, the next

section, to show us where we're going is historical background to 1942.

Some brief historical background may put the issues discussed here into proper perspective. The 500 to a thousand natives of the southern Yukon were aboriginally hunters and fishers who cleverly and successfully had adapted to the subarctic environment of the Yukon Cordillera, one of the most difficult places on earth for human survival.

Since animal and plant resources vary cyclically, families had to cover large areas of land to obtain the necessary food and shelter. They emphasized fishing in summer, hunting, drying and caching of moose, sheep and caribou in late summer and fall, relative economy of effort in the coldest months of winter when some hunting supplemented the stored food and trapping and fishing when the days began to lengthen in spring.

But they were always prepared to modify their movements in order to adapt to changes either in the natural environment or their historic circumstances. They had no year round settlements and until the turn of the century only a few permanent houses. The larger groups of thirty or fourty who gathered at fish camps or in some kinds of meat camps easily broke into smaller units for other seasonal activities.

Social organization was admirably flexible although clearly structured by a

matrilineal moiety system. Natives nearest the coast had Tlingit named sibs which they grouped into the two moieties and everywhere, individuals followed the affiliations of their mothers so that they belonged to one or the other of the two moiety divisions called Crow and Wolf. The moieties were exogamous. Thus, it was fundamental Indian law that a Wolf woman must marry a Crow man and a Crow woman must marry a Wolf man.

Marriage was not simply an arrangement between two independent individuals, but an alliance of moiety aligned kin groups, and it reinforced a whole series of group rights and obligations. Rules of moiety reciprocity dictated proper behaviour at birth, puberty, death, visiting, feasting, and many other occasions.

The old were respected for the knowledge they had acquired during their lifetimes, and they were expected to pass it on to the young. A man was responsible for supporting his wife's parents until their deaths, so that old people were well cared for.

The traditional world view was rich and coherent, stressing the need for harmony with all beings in the natural world. As in any small scale society, each individual had a clear idea of who he or she was and what was expected of him or her. The ethic included co-operative social relationships as well as respect for the animal species on whom livelihood depended. Excess behavior of any sort was deplored, especially individual aggrandizement and irresponsible overhunting and trapping. Yukon Indians developed a strong sense of personal obligation to the group. At the same time they valued the independence and self-reliance in thought and action required of all sub-Arctic hunters. Such conditioning resulted in the outstanding characteristic of the Yukon natives, the adaptability which so often enabled them to make positive responses to changes in their environment.

Cruikshank, McClellan,
Johns, Jacquot
In Chief

The next section deals with the 19th and 20th century. We know that for at least two centuries Yukon Indians have been adjusting to both indirect and direct contact with whites. In the 19th century they met few whites directly; however, Southern Yukon natives responded to the European desire for land furs both by intensifying their own trapping and by trading for more furs with Indians further north and west. These furs they then sold to the Coastal Tlingit Indians in exchange for goods acquired from Russian, American and British ships. Some coast Indians were attracted inland permanently because of the opportunity to get fine furs.

This early response to outside events remained essentially a matter of inter-native adjustments. However, the Klondike Gold Rush of 1898 was far more sudden and large scale, exposing the Yukon to 30,000 transients headed for Dawson City. The story has been told countless times, but seldom from the Indian viewpoint. Indians along the route to the gold fields became temporarily involved in packing, guiding, and providing food for the white prospectors. Some became deckhands on the river boats. A few Indian women married white prospectors and left the country. The Tagish, who were themselves involved in the discovery of gold, and the Han who lived at the mouth of the Klondike River, were the natives most affected. The latter were virtually destroyed.

Most other Southern Yukon natives remained observers of this first rush rather

than full-scale participants. Perhaps the chief long-term affects for them were the breaking of the Tlingit monopoly on the fur trade, the arrival of independent white traders, the expansion of missionary activities, and the building of the White Pass Railway from Skagway to connect with the river boats running between the new towns of Whitehorse and Dawson City. Some sites where early traders built posts later became villages along the Alaska Highway, for example, Champagne and Burwash.

Most whites left the country soon after the beginning of the century. By 1900 the total population of the Yukon Territory had climbed over 27,000, of whom 3,000 were Indians, by 1912 it had shrunk to 6,000 Indians and whites, and by 1921 to 4,000.

World War I and the accompanying flu epidemic brought illness and death to some Yukon Indians, but had relatively little effect on the overall way of life.

Natives continued to live, trap, and travel in family groups for fur prices remained high until the 1930s. By the 1920s and 1930s the annual cycle included one or more trips to a trading post. Families often built log cabins near such posts, but they rarely occupied them year-round. For each group had several homes in a given territory. Some men worked on river boats, cut wood, or worked with big game outfitters. A few had seasonal jobs on the White Pass Railroad. More children were attending residential

schools. However, basic social organization and coherence of the traditional lifestyle remained, and natives were even able to adapt the story of the gold rush to their traditional world view.

35 years ago there were no major roads, and almost no mechanized vehicles in the Yukon. A few wagon trails remained from the flurries of mining activity near Kluane Lake and Carcross early in the 1900s. A winter road parallelled the Yukon River from Whitehorse to Dawson City. The White Pass Railroad brought freight to the coast from Whitehorse and took out gold and other ore brought upstream from Dawson and Mayo. Generally, however, people travelled by foot, by dog team, or by boat. They lived separated from each other by several days of travel.

Then in April, 1942, three regiments of American soldiers suddenly arrived in Whitehorse by train with orders to build the Yukon section of the Alaska Highway. Between April, 1942 and December, 1943, more than 34,000 men, mostly strangers to the Yukon, were employed on construction of the road. Once again native people were overwhelmed with no prior notice by large numbers of outsiders with radically different lifestyles. No wonder older natives sometimes describe the building of the highway as the second rush. Its consequences were infinitely more disruptive than those of the first rush, testing native adaptability to the limit , often at great personal cost .

I earlier mentioned the ability of Athapaskan Indians to adapt to the necessary conditions

of life, and this has repeatedly been mentioned by enthnographers. This adaptability has worked remarkably well in a world over which the natives had some measure of control. But when they were faced with a situation over which they had little or no economic input, one in which unexpected and cataclysmic changes were introduced from outside the north and the rules and decisions were made in far away metropolitan centres, this ability and willingness to adapt became less helpful. Steadily, the lifeways, the sense of social responsibility, the self-reliance were exchanged for humiliation or racial discrimination, poverty, unhappiness, illness, and far too often, early and violent death.

The next section deals with the Alaska Highway and its coming, in more particular. Any discussion of the impact of the Alaska Highway on Indian people in the Southern Yukon must consider both the construction phase and the period following construction when the highway came into use by civilians. The highway itself was built in two phases. First the pioneer road constructed by the U.S. military and some civilian contractors; secondly, a permanent road built jointly by the U.S. Public Roads Administration & War Department, using Canadian and American civilian workers.

The pioneer road was built by seven regiments of U.S. Army Engineer Corps, including 394 officers, 10,765 enlisted men, as well as 47 contractors under supervision of the U.S. Public Roads Administration.

who employed 7,500 men. Three regiments worked in British Columbia; one worked in Alaska; three other regiments were those who reached Whitehorse in April 1942.

From here one worked north to Alaska, another worked south to Teslin, the third regiment was sent to Teslin by boat and worked south to Watson Lake. Construction camps or line camps were located at 10 to 15-mile intervals along the route and at every major bridge job; each camp housed between 100 and 200 men. Main camps were at Fort St. John, Fort Nelson, Whitehorse and Tok. Overnight the population of Whitehorse rose from 754 to 20,000, and an array of army buildings, supply depots and warehouses appeared around the city. This pioneer road was completed eight months later on November 20, 1942.

The building of the permanent road along the approximate path of the pioneer road was completed in 1943. It consisted of straightening and upgrading the original road. For this job, the Public Roads Administration employed 81 contractors who in turn employed 14,000 men. They were assisted by 1,850 employees of the Public Roads Administration. The work was done by dividing contrac tors into two shifts, each working 10 to 12 hours a day with equipment working 22 hours a day. This permanent road was completed on October 31, 1943, with only 20 bridges still to be finished. Within a year and a half, then, a total of 34,637 men were added to a relatively isolated part of the world where only a few thousand people made

their homes.

Related projects accompanied the building of the Alaska Highway. The Canol (Canadian Oil project) funded by the U.S.A. and built by the U.S. Army and Canadian labor, pushed a short-lived road and pipeline through from the Alaska Highway to Norman Wells, Northwest Territory. A refinery was built at Whitehorse. Begun in 1943, the project was abandoned in 1945 soon after it was completed, but not before it had brought a series of dislocations to Indians living in the Ross River area, similar to those experienced along the highway.

Construction of the Haines Road to Alaska begun in December 1942, further increased road access to the south-west Yukon.

With transportation routes clearly shifting away from rivers, a new road connecting Whitehorse, Mayo and Dawson City was begun in 1951, completed and upgraded in 1953. When it was completed the Yukon's capital was transferred from Dawson to Whitehorse. Subsequent roads, such as the Robert Campbell loop from Watson Lake to Faro to Carmacks, were built to accommodate the mining industry. Each road meant further disturbance to the Indians' traditional hunting and trapping areas.

Now we'll discuss the effect of the Alaska Highway on the native annual cycle and settlement patterns. In 1942, many native families who traded at posts near the new highway routes (Teslin, Champagne, Burwash Landing) decided for the first

time not to trap that winter but rather to stay at the posts or go to Whitehorse to try to find some employment related to the highway construction. After the highway was completed,most of these people continued to live year-around along the highway where they were joined by other natives from more distant areas. Once the road from Whitehorse to Mayo and Dawson was built and the river boats no longer ran, the Indians began to abandon river communities such as Upper Laberge, Lower Laberge, Big Salmon, Little Salmon, and Fort Selkirk. They moved closer to the roads with the intent of getting wage work to supplement an unstable income as the fur prices continued to drop.

A similar decline of inland traditional native centres at Hutshi, Aishihik and Kloo Lake followed the road construction. The creation of new permanent villages, such as Watson Lake, Haines Junction, Beaver Creek and Pelly Crossing, and the growth of older villages such as Teslin, Carmacks and Burwash Landing, can be directly attributed to road construction. In several cases the new locales had little long-term viability for the natives.

A steady drift of natives from all over the Yukon to the margins of Whitehorse that began with the building of the highway, has continued ever since. Far too many native families became squatters on the fringes of the town.

Most natives who moved to the highway or to Whitehorse from other areas could no longer maintain their old subsistence patterns. They could neither get necessary food from the land nor easily harvest furs, which had provided some cash income even in a depressed market. The land adjacent to the highway was limited and earlier residents resented the competition of newcomers from elsewhere especially as the supplies of game and fish dwindled. The construction of a highway directly contributed to the drain on natural resources.

In 1942, the U.S. Engineer Corps Commanding Officer had requested from the Yukon Territorial Government special hunting privileges for the U.S. Army and for Canadian civilians working on the highway. After considerable correspondence on the subject, U.S. Army and civilians working on the road were granted resident hunting licenses while they were working in the Yukon. Indian people repeatedly state that soldiers shot moose and other large game animals for sport and then left them to rot. Similarly, soldiers reportedly caught fish on their days off leaving them to rot on the shores of the river. This kind of waste ran counter to the native ethical code and also directly harmed Indians who relied on animal resources for food.

Perhaps the most obvious result of this "sport" hunting along the highway was the establishment of the Kluane Game Sanctuary, which greatly restricted Indian hunting rights in an area where

they had traditionally hunted and trapped.

In December, 1942, the Governor-General of Canada passed an Order in Council reserving from entry about 10,000 square miles and prohibiting hunting and trapping in that area. During the summer of 1943, a team of specialists (a mammalogist, a forester, and the Controller of National Parks) examined southwest Yukon and reported that it was seriously depleted of game because of the new accessibility provided by the Alaska Highway and the Haines Road.

A priest of Burwash, Father Morisset, and a game guide at Burwash, Gene Jacquot, both lobbied on behalf of the Indians at Burwash. Father Morisset argued that Indians were being deprived of their meat and that the restrictions were causing particular hardship for independent native women who derived much of their income from the sale of furs trapped in this area. Gene Jacquot argued that it was unfair that Indian people should have to pay for white people's errors.

According to the fur supervisor for Indian Affairs in Ottawa at the time this controversy was occurring and I now quote:

> " The limited correspondence on our files concerning this sanctuary would indicate that the decimation of the big game resources in the area was the direct result of too extensive big game hunting by whites generally and particularly by U.S. Army personnel of the Alaska Highway construction crews. The Indians, therefore,

who from time immemorial had hunted and trapped over the area without decimating the supply of big game animals have now to bear the brunt of rehabilitation."

Nevertheless, the area was closed to all hunting. Indian people at Burwash, whose livelihood was seriously disturbed by the restrictions on their traditional hunting territory legitimately blamed the game sanctuary on the highway.

The Indians who had formerly fished at Dalton Post or Klukshu had also traditionally hunted and trapped in the parklands. They, too, spoke bitterly about the regulations which cut them off from what once were their chief resources at a time when they had few other ways of procuring food or cash.

By the late 1940's only a few families spent entire winters on traplines or engaged in extensive summer meat hunts. In some areas the game had become too scarce; in others the former hunting grounds had been declared off limits. Very marked changes in the annual cycle and the settlement patterns directly followed the construction of major roads. The Yukon Natives were forced to give up longstanding activities relating to both their former subsistence and cash economies in order to adapt to the new economic conditions brought by the highway.

As an elderly Teslin Native put it in 1951, "Before the highway came and split us all in different ways, we used to feed ourselves good from this country."

Next, I would like to discuss the effect of the Alaska Highway on employment patterns, on cash income, and something of the adoption of technological innovations.

Initially, some Yukon Indians benefitted from opportunities for wage employment brought by the highway construction. A few men got jobs doing slashing, general construction work, and guiding. The guides were invaluable, because they knew the country best. They determined much of the actual ground route the pioneer road took.

Indian women earned money sewing mukluks, jackets and mitts to sell to construction workers, taking in laundry, and cleaning at maintenance camps. A number made considerable cash during the construction period: a Carcross woman reportedly made $900 sewing during the summer of 1942, while another woman in Whitehorse made $3,500 taking in soldiers' laundry between April and November, 1942.

There was a certain amount of euphoria at first; times looked good, and certainly interesting. One native man described how, in 1942, the Army bought or simply took dogs to train for dog teams they needed for construction work. Since fur prices were low, dogs were expensive to feed. Indians who had jobs did not expect to need the dogs again, so no one objected greatly. Later when they found they had to return to trapping as a chief source of income, the men who lacked the dogs were seriously handicapped. What had seemed a small thing at that time came to make a great

difference. Of course, the sudden influx of cash meant a chance to experiment with new technology.

While they were earning money in the spring of 1943, some natives were able to buy cars and to take advantage of the opening of the road to civilian traffic. They travelled a good deal that summer but by fall the cars began to break down, and most owners decided not to fix them. Those who had cars were too often asked to lend them, making maintenance expensive and more trouble than its worth. More importantly,some natives say, there were also too many people injured or killed in accidents. Although, mechanical transportation has become a part of native life, it has also been a major cause in the maiming and accidental deaths of a relatively high proportion of natives.

Most of the jobs held by natives in 1942 and 1943 were short term. Even after the Department of Public Works began to administer the highway in the 1960's, few natives were employed in full-time road maintenance. In fact, once the boom was over and the construction workers had left, many Indian families were less clear about their economic futures than they had ever been.

One former source of employment had disappeared with the river boats in the early 1950's when jobs as pilots, deck hands or cooks ended. Some Indians had worked for white contractors for decades cutting wood for boats. Often they developed relationships and not unlike those with fur traders,

getting supplies each year and going to debt to the contractor. All this went with the boats and some families were never paid for wood they had already cut.

Still, natives continued to move out to the highway or to the subsequent branch roads looking for work. That they considered the moves temporary is indicated by the number of possessions they left behind in their old homes. When they returned they sometimes found their houses thoroughly looted by tourists or others.

Once in Whitehorse, or in one of the smaller settlements along the highway, women sometimes found work in laundries and cafes or hotels. Some wives brought in larger incomes than their husbands since temporary jobs were usually the only kind of work available to Indian men. Thus many Indian males found themselves locked in situations where they could no longer provide for their families. We have already explained that hunting and fishing of newcomers was resented by those who traditionally lived near the highway. The introduction of registered traplines shortly after the highway was built further complicated the economic picture since the government-imposed plan did not take into account the matrilineal social organization of the natives. More and more, the native people were forced to rely for their livelihood on government subsidies which were becoming available. Julie Cruikshank will now take over and read the rest of that.

WITNESS CRUIKSHANK: In the next section we talk about the effect of government programmes on native life.

The post construction period coincided with the increase of government assistant programmes all across Canada. Although these developments were nationwide and their origin was independent of highway construction, the presence of the highway certainly hastened their implementation in the Yukon. It made possible the creation of new locations for some natives and further drew them into permanent settlements where government benefits could be most easily administered but where natives from widely scattered areas had difficulty adjusting to each other as well as to the white population and its new patterns.

The Family Allowance Act which was passed in 1944-45, made special provision for Indian families, but the cheques were not issued directly to Indian families. Rather, they were supervised by the Indian Affairs Branch of the Department of Mines and Resources which greatly increased its Yukon activities after the highway.

By 1946, 165 Yukon families with 483 children had registered, all families who were in direct contact with the Indian Affairs Branch which was located in Whitehorse.

Welfare expenditures of the Indian Affairs Branch doubled in the eight-year period between 1942 and 1949 and we include an appendix which

you can refer to showing the increase in that year by year after the highway.

The 1952 Revised Act to Provide Old Age Assistance brought another small source of income directly to Indian families with members over seventy years of age. The former close ties between old and young sometimes became strained when younger natives began to exploit the old as an easy source of income. In addition, job requirements and new education programmes accelerated the use of English as the only language of the young. Consequently, many could no longer communicate easily with their grandparents whose way of life and values they sometimes decried because they did not fully understand them. The old were saddened, the middle aged were perplexed, and the young seemed uncaring.

Sketchy statistics from the Annual Reports of the Indian Affairs Branch from 1942 to 1949 show the growing emphasis placed on Indian Education in the Yukon. The increased number of students attending day schools relates to the new schools constructed in highway settlements. Thus the number of schools rose from two to eight and the Indian students from 26 to 227. And again there is an appendix showing the increase in the number of schools included.

By 1956, native children had been integrated into the Territorial School System so that parents who wanted their children to live at home while they went to school had to remain in or move

to settlements where the schools were located.

Both the education programmes and a major acceleration of housing in the late 1950's reinforced the trend to permanent village life.

As government activities expanded, a host of new agencies began to operate in these villages usurping the former roles of kin groups in providing economic support, social control, education, health care and so on.

It is worth noting that many agencies began to deal primarily with women who now remain regularly in the village with their children while their husbands frequently left to seek work in Whitehorse or elsewhere to hunt, to trap or to accompany big game hunting parties. Mothers learned that in many cases they were directly eligible for various forms of family assistance. As one husband put it, "The government became my wife's old man. She didn't need me any more."

In the short term, many of the government service obviously benefitted those Indians who had no other resources but the cumulative effect of living in permanent government administered communities with no solid economic base often meant social breakdown in many families. As we have explained, native elders could no longer exercise authority over their children, many of whom no longer spoke or understood the Indian language. Government imposed band councils were rarely effective. Men in particular felt that they could no longer order their own lives or those of their dependents. A sense of frustration set in. Older people identify the highway as the time when things began to change for the worse.

Next we talk about the effect of

the highway on native demography, health and alcohol abuse. As with the gold rush, the arrival of so many men from outside could not help but affect Indian-white relationships. A few Indians described positive interactions between their families and soldiers or civilian highway builders. Those Indians who were construction workers or who served as guides or gave dog-team services socialized as well as worked with the whites.

Although some native villages were officially off limits to the army, the arrival of thousands of men quickly affected male-female relationships in Indian communities and in Whitehorse. Soldiers and construction workers were attractive to native women because they represent a life which seemed exciting and different and because they were a source of money or other desirable material goods.

A few whites married Indian girls and took them home thus reducing the chances of marriage for young Indian males, especially for those who adhered to the moiety rules.

More native men formed short-term liaisons with Indian women and then adandoned them. The Army maintained relatively tight control over its personnel but the civilian construction camps were freer and abuses marked some relationships between white men and Indian women. Natives describe the tragedies of girls who froze to death after drinking parties or who died in other violent ways because of their association

with these men.

Police records began to show the arrests of Indian women whose so-called crime was recorded as V.D. or referred to "Two American soldiers procuring liquor for an Indian man in attempt to obtain the services of his two eldest daughters".

As early as 1943, there were a number of birth registrations with fathers listed as unknown and three letters from Indian mothers to the Yukon Territorial Government asking the government to please locate white men who had abandoned their daughters with children.

By 1944-45, the government was discussing plans for an ordinance to provide for maintenance of unmarried parents. By 1947, the government became concerned about the status of so-called illigitimate children with white fathers and Indian mothers. After much debate, it was decided that these children would be recognized as Indians.

The net result of an influx of restless, dislocated males was thus to expose the native people to a new and distorted pattern of social behavior in which promiscuity was no longer condemed as it had been in the traditional code. The moiety system began to lose its significance even among the Indians and this caused great confusion over expected social obligations and support. The old rules ceased to work as effectively as they had in the past yet it was difficult to adjust them readily to a rapid barrage of unexpected new regulations or freedoms which the natives

themselves had played no part in creating or administering.

Among the most immediate and horrifying results of the highway were the epidemics of illness brought to settlements along the route. A medical doctor described how families remained at Teslin post in the winter of 1942-43 hoping to find jobs. During that winter, they were overwhelmed by measles, dysentry, jaundice, whooping cough, mumps, tonsillitis and meningitis. Only the Indian population was affected.

During the same winter, diptheria took three lives at Ross River on the Canol road and pneumonia caused many deaths in northern British Columbia. It is reported that more than 40 Indians died of measles or other diseases during the construction of the airport at Aishihik during the same period.

Anglican church records mention a dysentry epidemic at Champagne in 1942. The same report notes that at Klukshu a fish camp then away from the highway there was "very little sickness". An Anglican missionary at Champagne in the summer of 1942 wrote that the epidemic began when "some Indians arrived from Whitehorse and brought the dysentry with them. Nearly all the Indians caught who caught the disease -- nearly all the Indians caught the disease one after another during the next three weeks . We obtained medicine from the Army camp nearby". He recorded two deaths at Champagne.

For good reason, a government

agent wrote to Ottawa in 1943 of his grave alarm about the health conditions all along the highway and the text of that letter is included in the footnote.

It is these epidemics that the Indians remember most vividly in connection with the highway. They grieve especially the deaths of children. One women who lost a daughter in 1942 recalled a family who tried to leave Whitehorse to return home to Champagne. One of their children died eight miles from Whitehorse. In a panic, they returned to Whitehorse. Another child died that afternoon. By evening they had lost a third child.

Another woman living near Ross River in 1943 on the route of the Canol road to Norman Wells described how her mother was able to save some children by swabbing their throats with iodine. She remembers the army construction workers stopping work to build caskets for all the children who died.

Small populations can hardly afford to lose their members on such a scale if they hope to maintain their balance.

Federal discussions of health care paralleled other federal social programs initiated in the mid-1940's. In 1944, the Commissioner of the Yukon received draft legislation from Ottawa recommending improved health care for provinces and territories. The Commissioner replied that since there were no government employed members of the medical professions

in the Yukon at that time, it hardly applied. In fact, he said there were only two doctors in the whole Yukon Territory, neither likely to remain, and two dentists.

On the more positive side of course, efforts to improve health-care did eventually follow the construction of the Alaska highway. A massive T.B. x-ray clinic toured the full length of the Alaska highway between 1947 and 1949 bringing people in from fish camps for tests. The road also provided better access to the hospital at Whitehorse and health services have continued to increase.

However, one reason the government agents urged families to move to the highway was so they could avoid expensive medical flights to isolated camps and villages. It is worth noting too that although long-term hopitalization in Edmonton and Vancouver often meant survival for natives who might otherwise have died, the patients, especially young ones who have been away from their families for long periods of time find readjustment to the Yukon very difficult or impossible.

A major change in the use of alcohol also came with the soldiers and construction crews. In the 1940's it was still illegal for people of Indian status to purchase alcohol. Alcohol had actually been used since the time of the gold rush but usually in a well-defined public context "to show respect" as people explained usually to those of the opposite moiety. People say that in the 1920's and 1930's it

was used mainly to celebrate specific occasions privately and infrequently and by adults only. If parents planned to drink they say they made sure that their children were safely cared for in another home.

When soldiers and construction workers came, they brought alcohol to Indian homes openly and often. In some cases, it was a genuine gesture of friendship. In other cases, it was clearly used to take advantage of Indians. Younger Indians began to drink, some of them heavily.

R.C.M.P. statistics show an enormous increase in liquor related offences during and after the construction of the highway. Records of the 12 year period from 1936 to 1948 document this dramatically. Charges against Indians rose from 11 to 106 increasing more than tenfold. Again, these are included in the appendix.

In this context, though, it's significant that in 1943-44 the height of the highway development, Indians were still far in the minority of persons charged. For example, in 1944, a total of 401 charges were laid, only 44 of them under the Indian Act.

There are even more detailed records for 1950 where 105 Indians were charged under the Indian Act. Of these 105, nine names an unknown American soldier as a supplier of liquor. These 105 individuals paid a total of $1,479.50 in fines which would not have been levied if they had been white. Fourteen of the 105 paid no fine but went to jail.

The increased number of arrests

reflects the changed patterns of alcohol use during and just after highway construction.

THE COMMISSIONER: Excuse me, Miss Cruikshank. In 1950 nine people named an unknown American soldier as the supplier of liquor.

A Yes, I'm not sure. That was simply in the police records stated. It presumably could have been construction workers who were still there later but it was obviously someone whom they associated with the highway and it was impossible to check what those records meant.

THE COMMISSIONER: I see.

A The increased number of arrests reflects the changed patterns of alcohol use during and just after highway construction. Older natives overwhelmingly maintain that the highway brought the liquor abuse and the alarming accompaniment of violence, grief and further destruction of life ways. Some Indians became enfranchised and gave up other government benefits so that they could have liquor without legal discrimination.

In 1967, the liquor laws were changed giving Indians full citizen rights but by then alcohol abuse had become the serious problem that it is today for both natives and whites. Indeed, so many natives have died in liquor related accidents that by 1970 some of the older Indians were requesting a return to restrictions on native drinking. This probably would not alter or solve the problem but it

shows the desperation of those who see the unnecessary decimation of their people because of liquor.

Next, we talk about the effect of the highway on native values. Some of the most obvious effects of the highway have -- excuse me.

Some of the most obvious effects that the highway has had on Indian customs and values have already been touched upon but Indians who experience the building of the highway and who have tried to assess the current state of their culture cite still other changes some of which are also reflected in government records. For example, the older natives frequently refer to the fact that soldiers stole, taking valued personal items from the traditional gravehouses or fences or the necessary equipment or irreplaceable ceremonial paraphernalia from cabins. These items were taken as souvenirs not because they were needed, and Indians found this behavior incomprehensible.

The whites apparently got away with stealing from the Indians without serious consequences. There were major problems involved in policing the civilian camps, but trouble-makers were usually given a free ride home under an international agreement.

Faced with such examples on a large scale, a few Indian people began to commit similar violations. R.C.M.P. files show that in 1950, 13 Indians were charged with theft -- of articles in caches, of store goods, of furs, liquor and other items. None of these violations would have been necessary nor would they have been tolerated in traditional native society. As early as 1948 some natives were declaring them as symptomatic of a deep cultural breakdown.

To make matters worse, and in contrast to the treatment of the soldiers and construction workers, Indians were severely punished, often out of all proportions to the violations. Considerable correspondence concerns one case where a white man gave an Indian man liquor, the Indian man went "joy riding" in a truck and was sentenced to one year in jail.

Another case is documented where a young native man, convicted of theft, was sentenced to one year in jail. Months later it was discovered that he was only 12 years old.

Similarly, two teenage Indian girls convicted of shoplifting (lipstick, comic books, cigarettes, toys and clothes) were each sentenced to one year in jail.

These are not isolated cases but a pattern of convictions which were occurring by 1950. Discipline, always the prerogative of the family, began to fall to outside agencies -- teachers, Police Courts, medical specialists, and later to a whole host of government agencies.

Another pattern of behavior introduced by the highway which ran directly counter to the native ethic was the incredible waste at Army and construction camps and theruling that food and materials had to be destroyed or abandoned rather than distrib uted when personnel left the area. The Indians recall "potholes filled with hams", "bags of flour dumped in garbage", and so on. Such behaviour was repugnant to people who had always made maximum use of their environment. Such waste which the older Indians have never forgotten, seemad a betrayal of man's obligation to share.

All these events and attitudes as well as others less easily verbalized, steadily eroded the traditional value system without offering acceptable alternatives. It is to the great credit of the Indian people that most of them have been able to adjust so smoothly to the new world which followed the highway and that today, whenever possible, they continue to take their affairs into their own hands.

In conclusion, native people who lived during the construction phase of the Alaska Highway speak about it with mixed feelings. It brought some things which they remember as good -- excitement

of new people, new jobs, increased access to other communities, to hospitals, schooling for their children in villages where they could live at home. It also brought things which they remember with bitterness -- economic and social dislocations, the draining away of young people, alcohol abuse, sickness and death.

Overall, the Alaska Highway did bring some gains along with the losses. But the gains, education, health services and so on, will continue or not as the federal bureaucratic process dictates. It is not possible to argue that similar gains will accompany the construction of a pipeline. On the contrary, the demoralizing effects which accompanied the highway can be expected to accompany the pipeline; more social and economic trauma, disturbance of gain and fur-bearers that still remain important in Indians' lives, legal problems, more alcohol abuse and violence, conspicuous waste and pillage -- in short, the same things which are now associated with oil pipeline development in Alaska.

We have stressed that Indian people have always shown remarkable ability and willingness to adapt to changes in their environment. But this ability may fail if people are again faced, and so soon, with major changes in their physical and social environment, with large-scale events over which they cannot hope to have any control.

The economics and politics of pipeline development clearly indicate that local people, native or white, will have no real voice in the changes

which the pipeline will inevitably bring, and therefore they can expect to derive no benefits from it.

All evidence indicates that the impact of a gas pipeline in the Southern Yukon could only bring further demoralizing to Indian people. No long-term benefits could be expected to accrue to Indian people living along any pipeline route.

We have tried to report fairly what we judge to have been the effects of the Alaska Highway on natives in the Yukon. We are not ourselves natives who have lived our lives in the Yukon, or whose parents and grandparents did. However, in trying to understand how these people lived in the past and live in the present, we have come to admire their wisdom and resilience.

Our most important message to the Commission is, in fact, that on the matter of the gas pipeline as well as other affairs that impinge on their lives, the native people themselves must be given every opportunity to speak and they must be heard. The Commission should carefully consider all -- any and all comments made by thoughtful natives concerning the proposal to construct a gas pipeline.

MR. VEALE: Perhaps, Mr. Commissioner, this would be an appropriate time to break for lunch.

THE COMMISSIONER: O.K., two o'clock.

(QUALIFICATIONS & EVIDENCE OF J. CRUIKSHANK, C. MCCLELLAN, J. JOHNS & J. JACQUOT MARKED EXHIBIT 618)

(PROCEEDINGS ADJOURNED TO 2 P.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

THE COMMISSIONER: Mr. Veale?

MR. VEALE: Mr. Commissioner, if we might continue with the reading of the report on the building of the Alaska Highway by Julie Cruikshank.

WITNESS CRUIKSHANK: I'd like to make a correction for the reporters from something I said this morning. On page 16, line 10, I said, "native men" and I should have said "white men" in the written evidence, but I --

THE COMMISSIONER: What was that again? Page --

A Page 16.

Q Yes.

A Line 10, I said "native men form short-term alliances" when I should have read "white men", it changes the -- as appears in the written evidence.

MR. VEALE: The written evidence is correct. The oral evidence is incorrect.

A That's just for the reporters.

MR. GOUDGE: I just take it the record will read more easily, the sentence should read:

"More white men form short-term liaison with native women, whom they then abandon."

A That's correct. Thank you. I'll read what was now added as an appendix to the

evidence. It wasn't written to be read, but I'll read it as it was written anyway, because I think it does add something to the Commission.

THE COMMISSIONER: Where is that? Which appendix is it?

A Mr. Veale had it appended, it's entitled:

"The International Highway Commission and the Building of the Alaska Highway."

Q O.K., right.

A The building of the Alaska Highway in 1942 and the proposed building of a northern gas pipeline through the Yukon and down the Mackenzie Valley show remarkable parallels. A brief review of some similarities may put the present Berger Commission into some historical context by showing how an earlier Commission in the north conducted itself and how its findings were used.

The materials used here come from one week's research in the Yukon Archives. Sources include, "Whitehorse Star", from 1939 to '43; some of the government records for the period 1929 to 1943; issues of "Northern Lights", which is an Anglican Church Newsletter, during 1942; correspondence from an Anglican missionary in villages in 1942 to '43; and an article written by a medical doctor in Teslin, 1942-43. Notably missing are records of the Canadian Highway Commission. The Yukon Archives hopes to acquire them this spring. So that newspapers are the major source of the news, and they show what local people

knew about the proposed Alaska Highway project. Copies of all news clippings, articles, maps, etc., are referred to and attached to this in the order that they're cited. Copies of government records are not attached but they can be located in the Archives.

Archives records show that discussions of an International Highway in the United States and in the Canadian House of Commons and Senate in 1929-30 resulted in the appointment of a joint Canadian-U.S. Committee in 1931,

"to consider a Yukon-Alaska-Pacific Highway,"

The three Canadian members were an engineer appointed by the Federal Government, an engineer appointed by the B.C. Government, and George Black, then Member of Parliament for the Yukon. There is no indication that this committee had any powers and it is not clear what they did. The important point is that such a committee existed this early. Archives Government File 21, Part 1, contains a report on the preferred route in the Yukon, and discusses engineering problems which would face anyone building a highway along the Yukon River through Whitehorse and Dawson to Fairbanks.

Discussions of such a highway generated enough interest to spark an International Highway Association of Yukon Inc. in Dawson City in 1929. Their stated objective was to link the Yukon capital to British Columbia and Alaska by road. They operated as a lobbying group, and among other things had a map of their proposed route printed on the back of their letter paper, which is attached here. At least

one other Yukon business man had a map of a similar route printed on his writing paper, the map is also attached. Note that both the routes run along the Yukon River through Atlin, Carcross, Whitehorse and Dawson City. The assumption that this would be the route continued to dominate discussions about an international highway through the Yukon until it was actually built many years later.

However, in 1939 when Commissioner G.A. Jeckell was asked by Ottawa how people felt about the highway, he replied:

> "You ask that I give you an idea of what is being said locally on this subject. The general agitation for this highway in the past and also at the present time is in the interior of Alaska, centering around the Town of Fairbanks.
> The residents of the Yukon Territory have never at any time become very enthusiastic over the project...
> ...So far as the direct development of the Territory is concerned, the opinion is that a highway through the Territory to nearest tidewater would be of more value."

On December 23, 1938, Prime Minister Mackenzie King announced the appointment of a 5-member Canadian Commission to consider the project involving the construction of the international highway through British Columbia and Yukon to Alaska. This Commission was to parallel the Commission appointed

"several months ago"by President Roosevelt. Canadian Commissioners were Charles Stewart, the chairman, who was from British Columbia, General T.L. Tremblay from Quebec, J.M. Wardle, from the Department of Mines and Resources, Mr. Arthur Dixon from Victoria, and J.W. Spencer from Vancouver.

The activities of the Alaska Highway Commission can be traced through the "Whitehorse Star" reports. Note that most of the news is taken directly from American sources and many reports begin,

> "...according to recent accounts in U.S. and Canadian papers..."

Similarly correspondence in government records for these years consists mainly of queries about what is happening on the proposed highway.

"Whitehorse Star" editorials tended to be enthusiastic about the highway as fragments of news reached them from other southern newspapers. The assumption continued to be, however, that whichever route was chosen would run through Dawson City, then the capital of the Yukon.

Like the Berger Commission, this Alaska Highway Commission travelled to various areas which might be affected to discuss routing of the highway. Four members of the five member Commission came to hold a public meeting in Whitehorse on July 14, 1939. The "Whitehorse Star" advertised their coming in the May 26th issue, and in the June 30th issue. Most of their July 21, 1939 issue carried proceedings of the meeting under the somewhat misleading title, and I

quote:

"Whitehorse Public Meeting before British Columbia-Yukon Highway Commission overwhelmingly in favor of the project."

As has Justice Berger, the Chairman of this Commission stressed that:

"the question of whether or not the proposed highway is to be constructed is purely a matter of government policy and not a matter which comes within the purvue of the Highway Commission. The Commission is appointed solely for the purpose of hearing first-hand data regarding probable routes and their feasibility."

Cruikshank, McClellan
Johns, Jacquot
In Chief

Six Whitehorse residents presented briefs, all of them white, all of them male. One speaker was opposed to the building of the highway. Five, including the editor of the newspaper who wrote the article were in favor of the highway but their briefs discussed whether the highway would be built on the east side or the west side of the Yukon River, the assumption still being that it would follow the Carcross - Dawson trail.

Three weeks later, members of the parallel American Highway Commission visited Whitehorse informally and without holding any hearings. Two memorable quotes from newspaper reports which follow their visit were:

> "...Although they will have no voice as to the route to be decided upon on the Canadian side, they are nevertheless deeply interested in the routes which have been placed before the Canadian Commission for its consideration...".

But the editor also notes that:

> "...In the course of the interview, they intimated that it might be more advantageous in many ways for the proposed highway between Whitehorse and the Alaskan boundary to be constructed through the Kluane country instead of keeping to the present overland trail all the way to Dawson."

By then it was becoming clear to local people that there were at least two possible routes and perhaps more; an eastern route or it was called the 'B' route via the Finlay, Liard, Pelly and Yukon Rivers and

a western or 'A' route paralleling the coast and running north through Atlin and Carcross. That the question of alternative routes was generating some emotionalism becomes evident in prose such as that reprinted from the "Atlin Newsminer" and that's appended.

By October, there were indication that the Canadian Government was prepared to shelve the whole project because of the war. The Canadian and American Commissions held periodic meetings as a joint commission to compare their findings. The last such meeting was held one year after the commissions were appointed, then each commission began separately to prepare an independent report.

Almost immediately, the U.S. Commission began to issue independent statements speaking on behalf of the Canadian Commission as well. Six weeks after the joint meeting, the "Whitehorse Star" learned from Washington that the American Commission favored a route from Prince George to Atlin to Alaska, that is, a middle route between the A and B routes which have been discussed. The U.S. Commission also reported that the Canadian Commission had:

> "... no preference on either of the three routes proposed".

and would agree with the recommendation of the American Commission.

Significantly, the Canadian Commission had not released any report yet and didn't for another year and a half.

Shortly after this, the

managing director of the Spokane Chamber of Commerce announced that:

> "Congressman Warren Magnussen had informed him that the International Alaska Highway Commission would recommend that the highway run north of Prince George, east of Hazelton to Fort Saint James and Whitehorse, thence northwest to the Yukon Alaska border and thence due west to Fairbanks."

Still, no report from the Canadian Commission.

December the 6th, 1940 and December 13th, 1940, issues of the "Whitehorse Star" both carry front page articles implying that any future shipments of naval craft to Great Britain from the U.S. might require Canada to grant the U.S. a corridor for a throughway highway to Alaska:

> "over which troops and supplies could be used in an emergency".

These reports were not confirmed but they persisted.

No more highway news is reported in the "Whitehorse Star" until January 31st 1941. Again, the "Star" source is the U.S. -- is in the U.S. This time the "Fairbanks Daily Newsminer". Again, a member of the U.S. Commission identified as a member of the International Highway Commission states that the highay will be built by the end of 1942 and that both American and Canadian authorities favor a Prince George - Hazelton - Atlin - Whitehorse - Kluane route. But, the member adds that:

> "Defense authorities have at last become aware of

the necessity of the international highway and as their word is final in such matters, action will be taken this year".

The article adds that the Commission will meet in Washington or Toronto where the recommendations will be incorporated in a Bill backed by the U.S. Defense Authorities and presented to U.S. Congress.

By June 6th, 1941 the strain between the two Commissions is evident and the "Star" reports:

"American Highway Commission stress work be commenced immediately and be completed in two years."

By now the defense theme is central and there is talk of a "Burma road for Alaska." The American Commission is clearly in charge by now. The article concludes that the American Commissioners are meeting in Juneau and:

"The Canadian Commission has been invited to attend".

Finally, in July, 1941, the Canadian Commission released its report. The "Whitehorse Star" headline reads:

"U.S. Commissioners do not Favor Route Favored by the Canadian Members of the Commission for British Columbia - Alaska Highway."

The Canadian Commission gave the first preference to a Finlay Fork route from Prince George to Manson Creek to Finlay Forks, then through Sifton Pass, the headwaters of the Liard and Pelly, then on the Pelly along the Pelly to the Yukon River and on to Dawson.

This route involved 1100 miles of new road in Canadian territory and was:

"... the most satisfactory and the most economical to construct".

Their second choice was a route from Hazelton, British Columbia to Whitehorse which they said would be more difficult to penetrate, the snowfall being heavier.

By now then, it was taken for granted that:

"...since it is more likely that the U.S.A. will be furnishing the funds with which to carry out the construction of this particular undertaking, it is almost a foregone conclusion that the choice of the U.S. Commissioners will prevail."

Nine months later, in March, 1942 the United States and Canadian Governments approved construction of a highway for military purposes. $30 million was appropriated by the U.S. Government for the project. The route was different from that suggested by either commission, but closer to the American proposal and avoiding Dawson City, paralleling airlines from Dawson Creek, Fort St. John, Watson Lake, Whitehorse and Kluane.

It is interesting that when the U.S. Government announced plans to begin construction of the highway they felt it was necessary to emphasize that "contrary to published reports, the negotiations were at no time hampered by lack of co-operation by the Canadian Government."

George Black, Member of Parliament for the Yukon and a member of the original 1931 International Committee, created to study the highway, noted in a letter to Commissioner Jeckell a few days later that he disapproved of the route chosen, but that,

> "War hysteria is apt to warp the judgment of some people."

Again, through this whole period, a significant theme in both newspapers and government records is the complete lack of real information about what was happening. Clearly the decisions were being made far from the site of the proposed highway (as is the case with the presently proposed pipeline). At no time in any record or newspaper did I see any mention of the relationship of the proposed highway to native people.

The construction phase. When it became clear that highway construction would proceed, the U.S. Army requested British Columbia to hire extra police "to enforce the laws of Canada" along the route. Additional police were recruited and administered by the B.C. Police Commission, but they were paid for by the U.S. Army.

In the Yukon, Member of

Parliament, George Black, wrote to Jeckell asking him to encourage R.C.M.P. to patrol construction camps, particularly in order to protect game. Correspondence six months later indicates that there were in fact problems policing civilian camps in the Yukon. Frequently men left camps with a lot of money, became intoxicated and returned to the camp demanding to be flown home under terms of an international agreement.

In March 1942, the "Whitehorse Star" reported that three large parties were expected: One would work out of Dawson Creek and two out of Whitehorse. In this same issue of the newspaper it was revealed that the U.S. planned to turn the highway over to Canada six months after the war.

By April, when an advance party of 130 men arrived, the "Whitehorse Star" had more generalities to report:

"It is understood that a complement of between three and 4,000 men will be engaged in the project..

Work will be carried out at various sectors of the route simultaneously, each camp consisting of from one to three companies of 180 men forming a company.

These camps will be moved from place to place as work proceeds."

But there was still no detailed information about the route or the number of men who would be coming to build it. Tenders for construction were called the following month. One contractor announced that 15,000 men were needed for

the first 65 miles, a much higher estimate than had been given earlier.

Related development plans. Simultaneously, rumors spread about a possible rail link between U.S. and Alaska, again through the Yukon, along the Francis River, Pelly River, and northwest of Fairbanks. Railroad survey parties arrived in Whitehorse a week later creating something of a flurry. It was rumored that a railway might be built instead of a highway, thereby conserving rubber and making use of second-hand rails available in the United States. Ties could be cut along the route, they said. This plan rapidly disappeared from sight.

One development which received a boost from the highway was the Canol Pipeline project. An article in the May 16, 1941 issue of the "Whitehorse Star" had predicted that a road would be built from Fort Norman to Mayo so that oil could be shipped to Alaska.

> "It is a well known fact that Alaska is devoid of oil resources and oil from Canadian fields could easily be shipped from a central port like Mayo to Alaska via a downriver haul."

A year later, Canadian and American Governments were discussing a pipeline from Fort Norman to Whitehorse to transport the gasoline. This development and the accompanying road were clearly linked to the building of the highway.

On December, 1942, construction of the Haines Road from the Alaska Highway to the coast

began. This project too was a direct result of the Alaska Highway.

There were a number of labor problems also involved here. Once highway construction began, there were major problems regulating wages. Canadian wages were set at 75¢ an hour, plus cost of living bonus. American contractors were paying 96½¢ per hour and a 10¢ exchange on Canadian money. This sparked a debate in the House of Commonse which is reported in Hansard for that time. Canadian workers began leaving jobs with Canadian contractors on the highway to work for American contractors. The Federal Government took steps to prohibit American contractors from hiring Canadians. Charges of discrimination against Canadian workers followed. How this issue was resolved is not clear in the records, but the parallels with the Alaska Pipeline wages are obvious. The Berger Commission states that wages cannot be allowed to escalate in Northern Canada as they have in Alaska, but regulating this could be difficult.

Government correspondence during this period focuses on a number of things.

(1) trying to determine something about the U.S. plans for building the highway, especially the route, numbers of workers required, and so on. Most letters contain a series of questions.

(2) correspondence about game. U.S. Engineering Corps Commanding Officer requested special hunting privileges for the U.S. Army and for U.S. civilians working on the highway. There is a great deal of correspondence

on this subject. Ultimately, U.S. Army and civilians working on the road were granted resident hunting licences while they were working here.

(3) there is a lot of correspondence about labor, particularly pay rates.

(4) there's a lot of discussion about timber and slash disposal along the route.

(5) there's a great deal of discussion about policing camps, particularly the civilian camps, which were not under any kind of military control.

The highway was officially completed on November 20, 1942.

By December, 1943, U.S. Public Road Administration Offices closed and the exodus was completed.

Files could document all this in great detail, but this outline should be sufficient to point out where parallels between the Alaska Highway development and the northern pipeline development exist.

There's also a discussion here on epidemics in native communities, which I think I'll leave out as it was read into the evidence earlier.

Just in conclusion then, based on what I've read, one conclusion which can be drawn from the record is that Indian people were in no way consulted or considered in any preliminaries to the Alaska Highway even though the impact was probably greater for them than for an y other segment of the Yukon population.

This brief summary indicates that the Alaska Highway Commission was a complete

whitewash. The skeptical might be forgiven for asking whether things have changed greatly.

MR. STEEVES: My copy says, "anything has changed".

MR. VEALE: Well, I think you are aware, Mr. Steeves, that the copy that you have is not necessarily the ultimate evidence that goes into the transcript.

MR. STEEVES: I suspected that was the case, listening to the evidence.

MR. VEALE: We're prepared to continue, Mr. Commissioner, with the evidence of Mr. Johns. Would you read your evidence, sir?

THE COMMISSIONER: Just before you do that, I think I should say that somewhere in here, when you attributed to this Commission an expression of opinion on the subject of the escalation of wages in Northern Canada; I don't think the Commission has expressed any point of view. It's heard a lot of evidence about the problem. I agree, though, with your conclusion regulating the matter would be difficult. No one has come up with an answer to that yet. We're still waiting for one. Right, so carry on then, sir.

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Yes Mr. Johns.

WITNESS JOHNS: Yes. The earliest talk about a highway to Alaska began in the '20's -- 1920's and early '30's. People talked about a couple of different routes for this highway and there was a lot of argument about which route would be better; a route close to the west coast or a route through the interior. When they actually built the highway, they didn't follow either of the routes proposed originally.

The only oppositions to the highway in those days came from the president of the White Pass and Yukon Railway . The railway was the only way to get into the Yukon before 1943 and he was pretty worried about how a road would affect their business.

When they actually did decide to build the highway in 1942, there was a lot of secrecy because of the war. There were a few rumors but nothing definite.

I was out hunting with my wife just when the rumors started and I started to think, "What if they need me to guide for them", so I went back to Tagish and sure enough, there was a message for me asking me to guide from Marsh Lake Tagish area east. I signed a contract with the United States Government on May 6, 1942 in which I agreed to be chief guide to hire other guides and to provide the guides with horses.

In those days, guide wages were set at $6 a day but I held out for ten. It took a lot of arguing, but finally they agreed. They decided that

I wasn't just an ordinary guide. I was a road man. I knew the country. I provided horses. I picked the guides. Anyway, I got my ten a day.

I hired two other guides who knew the country and knew my horses. Between us, we worked east from Marsh Lake to the head of the Little Rancheria River and into Carcross, a distance of approximately 250 miles of road. Myself, I worked from Carcross to Teslin when I had to check on my men and horses further south.

Other Indian men did get jobs as line cutters sometimes but there were none in our section. There were few jobs and they were short-term jobs.

When we blazed trail, we worked in groups of one guide and one white officer and two colored soldiers. Most of the regiment near Carcross were colored men, in fact, brought up from the southern United States. A lot of our work was slow going because a lot of it was through marsh. Other parts up on the benches, the bulldozers just pushed through the jackpines so that we could clear about 12 miles in a day and ride home at night on a road we started that morning. Not always, but sometimes.

I had a lot of arguments with the army people about the route the road should follow. They would fly over and point out a route without knowing the problems on the land the way we did. I won out every time except once and that one ended up in a big swamp. Generally, they told us to go from bench to

bench to make the road crooked because of security problems so that's how we did it.

Most of the place names on that highway came from army officers. Jake's Corner was named after an officer. Johnson's Crossing was named after a Colonel Johnson. One river near Squanga Lake they named after me, John's River, but later the Canadian Army changed it to Seaforth River. A lot of people were pretty upset about that.

Problem areas. Some of the problems we had when they constructed the highway are the same kind of problems a pipeline would bring. We think that the Commission should be aware of how these things affected us.

Hunting: During the time they were building, construction crews worked six days a weeks and got one day recreation. On their day off, they generally wanted to hunt so they'd head off into the bush. I know for sure that there were 200 moose shot between Whitehorse and Fort St. John. A lot of times they would go hunting three or four miles off the road, pack a bit of meat out and either go on shift right away and leave the meat to rot or get some friends to help them go out and pack it up and pack it in. Of course, they didn't know the country and usually they couldn't find it again, so the meat rotted.

Fishing was the same. Many times I saw strings of fish pulled up on the side of a lake full of rotting fish. Once I counted 60 trout pulled up on a string at Little Atlin Lake left to rot.

It was just a sport for them, not food like it was for the Indians.

Alcohol. Many of the real problems with alcohol in the Yukon can be traced back to the highway. There was one Government Liquor Store in Whitehorse and you'd see line-ups four abreast all the way around the block. Because of rationing, the government allowed only one bottle per person per month so there was a lot of serious bootlegging going on. This was in fourty below weather too, around the block.

They kept pretty tight control over the soldier's camps but the civilian contractors were a tough group . They really couldn't control them just they won't be able to control pipeline crews.

They used to smuggle in loads of liquor in covered army trucks, hidden under coal on trains coming from Skagway, all kinds of ways. There were 12 trains a day; six in and six out coming in from Skagway. The Customspeople tried to keep an eye on what was coming in and sometimes they got it, but they couldn't get everything.

In those days, a bottle of over-proof was sold for $8.00 in the liquor store and $100 on the highway. Kings Plate Whiskey, the cheapest American whiskey you could buy in Skagway was $4 in Skagway and $35 on the highway.

Problems for women. The soldiers were pretty much under control as I said, but sometimes they got pretty wild. The civilians weren't really controlled much at all.

When I left Tagish to start guiding we told our women to shoot if they had to. They knew how to use guns. Before we left for any length of time we told the women to go to Carcross by boat. It's quite a distance by water but it was far from any army camps. There was big army camp at Carcross, 1250 men in the first group and 2500 by the time they all got there, but it was just a base for them. They were working most of the time in other camps on the road and there were enough people in Carcross that we figured it would be safer for the women there.

Sometimes, especially in Whitehorse, women got mixed up with the soldiers. A lot of young women thought it was smart to be seen with a soldier. Sometimes they got drinking, ended up in the car and found themselves in an army camp miles from town and there it got pretty rough. Sometimes there were gang rapes in those camps. It wasn't a pretty picture.

Sometimes the women even married soldiers but the marriages didn't last. One day he'd be there and the next day he'd be transferred and long gone. They could have been found I suppose but no one ever did. It was a legal marriage but it wasn't really a marriage.

Destruction of property. The soldiers had no respect for Indian property. As far as I remember it, every trapper's cabin between Whitehorse and Teslin was looted, broken in, things

stolen; old guns, some of them antiques, bear hides. Usually they never got them back. ONe time we made a real case and made them give it back but most times we never found them.

They looted graves, grave houses, too and took what looked valuable. They didn't understand our customs and they didn't show any respect for our traditions.

Changes in settlements. ONce the highway was built, people began to live year round in settlements like Teslin. Teslin had been a central base or village for people long before 1900 but before the highway was built people only stayed there between June and September with perhaps one or two trips to trade furs in winter.

After the highway, lots of people stayed there year round. It made it harder for people to hunt too because there were so many people trying to live off the land in a small area.

People in Teslin were well off because they trapped a lot of furs. As soon as the highway was built, they bought vehicles and that kept them in the community, too. When the government registered traplines individually, the ones with traplines along the road could even hunt and trap from cars. But gradually hunting fell off. There were moose-licks all along Teslin Lake at one time. After the highway the moose never came back. There was too much traffic. So Teslin people had to go further away to get their meat.

Tagish, where I was living, had different problems once a road came through. Tagish is at the narrows where two big lakes join -- Marsh Lake and Tagish Lake. The road to Carcross was built to these narrows and a bridge was built across.

At one time, Tagish was a big Indian settlement. Before the highway Indians camped on both sidesof of those narrows and it was generally known as Indian land. After the road, the Territorial Government gradually took that land away from the natives so that now Indian Affairs owns only one lot, where my sister lives. Six miles from Tagish at Little Atlin Lake used to be a community trapline for people from Tagish and Carcross. In 1950-51, the government made that an individual trapline and gave it to Patsy Henderson, a well-known Indian ma n. When he died, his wife passed it on to a grandson, who sold it. So Indians lost all that land.

I had corrals right next to

that where the government has now built a tourist campground. First, the Army burned my corrals for wood, so I rebuilt them further back, and they burned them too. Finally the Territorial Government took the land and made it into a campground. All the Indian land around there went in the same way after the road came through. The Territorial Government took it all and leased it. In those days Indians were treated like dirt.

That was one reason I became enfranchised -- gave up my Indian status -- so my kids could go to better schools, so I could run my business, so I could be treated like a human being.

It's hard to describe how the highway really changed things. Let me put it this way. I remember one time in 1917 I went to visit my brother-in-law's parents for the first time. That was in the Teslin country. They were camped near Teslin Lake and they hadn't been to town for six months. They were a proud people. They told me not to use my dog food , that I needed it and I should use theirs. They had canned fruit, etc., set aside for special occasions, and they brought that out. If my moccasins looked old, I'd find a new pair waiting for me in the morning. I was a guest. All Indians were proud in those days.

Now that's all gone. Some of the old people are still that way, but not the younger people. All that began to change with the highway.

From what we hear about what is happening in Alaska, a pipeline would be even worse

for Indian people than the highway was. There is the problem of controlling camps. They even have trouble sometimes in military camps and the civilian ones were just not controlled. Pipeline camps would be civilian camps and they just can't be controlled.

Lots of Indian people still hunt and trap. Any further hunting would damage their livelihood. Problems of alcohol abuse, violence, everything we hear about in Alaska, could only increase.

Personally, I oppose any pipeline down the Alaska Highway, would be better than spoiling a new area like the Old Crow route.

Just a note on this --

Q Go ahead.

A -- Canol Road. Now a little regarding the Canol Road Pipeline. It was built in the winter of 1942 to '43 from Whitehorse to Norman Wells. They used the oil line for a while, and then took out all the oil line, but left telephone lines up. In time the telephone poles rotted, fell down in places, then the moose and the caribou and other animals got tangled in the wires and died a slow death. Then soldiers were sent in to clean up the road and emptied all diesel oil, motor oil and gas on the ground and just took back the empty drums.

Now, regarding oil when they did get it to Whitehorse, one Indian man drowned in Whitehorse in a pool of oil on a dark night, plus dogs, ducks, etc. That's all, thank you.

THE COMMISSIONER: Thank you,

Mr. Johns. When you finished your statement about the Alaska Highway you said,

"Personally, I oppose any pipeline down the Alaska Highway,"

and then you said something about Old Crow. I didn't hear you.

A Oh, what I meant there was the Alaska Highway is already used and already spoiled, you know, more or less, so it would be a shame to tear up a lot of new country like the Old Crow area, or through those other roads north. That's what I meant.

THE COMMISSIONER: Yes, I follow you. Thank you.

MR. VEALE: Mr. Jacquot, will you read your evidence, please?

WITNESS JACQUOT: Sir, I was born on June 21, 1928 in Whitehorse, Yukon Territory. I was raised at Burwash Landing, a small community some 180 miles west of Whitehorse on the Alaska Highway. The community was established in 1904 on the Kluane Lake by my father and uncle. My father was French; my mother was Scottish and Tlingit Indian.

I received my schooling in Whitehorse and Dawson City in the Yukon, and at Richmond, B.C. In 1943 I was given the choice of continuing on in school or helping my aging father carry out the business at Burwash. I chose the latter, we had a trading post, a big game guiding operation with over 150 head of horses that we raised locally. We also raised

our own vegetables and fodder. We had a small herd of cattle which we raised for milk and butter, as well as meat.

In 1937 Pan American World Airlines established a weather station at Burwash. There was a radio operator full-time, and an emergency strip was built, in the event of planes running short of fuel or weathered in. The flight route was between Fairbanks and Juneau, Alaska. This operation was carried out until the Alaska Highway was built.

In pre-Alaska Highway days, the activity in the community centred around hunting, trapping and fishing, hauling supplies from Whitehorse some 200 miles to the east. At first, horse teams were used, and then transferred to boats for the last 45 miles. Later in the 1930s, horses gave way to trucks that used a road built by my father and uncle. Many small placer mining operations were carried out in the surrounding areas and the miners grew to depend on our establishment for their supplies. I should say here that every family in Burwash maintained anywhere from six to 24 dogs which were used to pack and later in the winter for transportation.

There was much work in maintaining dogs as they had to be fed year-around, in the fall of the year shortly after freezeup the community usually put up around 20 tons of whitefish, mainly for dog feed.

In 1941 I came home for summer holidays. It took four days to come by boat from

Vancouver to Skagway, one day to come from Skagway to Whitehorse, and one week to get from Whitehorse to Burwash, first by truck and then by boat. You can see that much time was spent in travelling and very little time was spent with my family, and at that time we only had two months' holidays. At that time there was very little rumours about building a highway, and the feeling was that if a highway came it more than likely would go through Dawson. There was a rumor of a railroad running to the north of Burwash by some 50 or 75 miles.

In 1942 things took a very sudden change due to the Japanese invasion in December of 1941. The invasion of the Dutch Harbour, that's on the Aleutians, brought the need for a central highway system to Alaska. The local people in the Yukon had very little input into the decision of building of the highway or where the best possible route would be. Action was the word of the day and most of the decisions came from Washington, D.C.

Whitehorse went from a small community to headquarters for the military and highway-construction base for civilians. The population jumped from 700 people to over 20,000 people in approximately a year. I was unable to go back to Burwash in '42 because transportation was frozen for military operations. The White Pass & Yukon was run by the American Army. The highway survey crews first went through hiring local native guides. Expenses weren't given much consideration. Cost plus 10% became the usual fees.

In nine short months a road that ran from Dawson Creek to Fairbanks, Alaska, was punched through. It is safe to say that the population in both civilian and military exceeded 50,000 people in the Yukon Territory. Today we enjoy around 20,000 people.

When I came home in June, 1943, we were delayed in Skagway for two days. Skagway was a large military base. We finally arrived in Whitehorse and were dumbfounded with the activity of both military and civilian. There seemed to be lineups for everything. If you wanted to eat in a cafe, you lined up; if you went to a theatre, you lined up. As liquor was the only thing rationed, lineups were three and four blocks long.

If you went to a dance there were line-ups. Gambling houses in tents ran wide open around the clock. Bootleggers had a field day. Moonshiners carried out a thriving business. Every shack in Whitehorse was occupied. we had a barn that was converted into a garage in Whitehorse so our garage became a rooming house.

Cafes opened in what were once abandoned shacks. The R.C.M.P. worked closely with the military police to maintain law and order. Every available person was busy. The native people took to cutting wood. Saw mills sprang up. The builing of a telephone line commenced. A larger airplane field was built in Whitehorse and emergency fields were built and maintained every 100 miles. The Americans had a lend lease agreement with Russia and much of the planes and trainers flew this route.

The Canol road was built and a pipeline was laid from Norman Wells to Whitehorse where the oil was refined and pumped to Fairbanks. That should be Alaska, I guess.

The local government was run by one man. Licences were brought here. A mining recorder had a separate office. The inspectors of the R.C.M.P. became the local J.P.'s travelling throughout the Yukon.

Up until 1945 special licenses were issued to allow hunting, i.e. shooting and selling of game. Many native people were in this business along with guiding and equipment operations. I mean equipment

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operators there. This pretty well took care of the native help that were interested in work. In our community hunting trapping and fishing still held most of the native interest.

The Alaska highway when it was first built was a military operation. It was patrolled by the M.P.'s. There were check points every 100 miles or so. Convoys ran around the clock. Camps were set up at every River or large stream. As an example, I recall that there were 15 camps between Whitehorse and Burwash, a distance of 180 miles. The camps varied in size from 100 to well over a thousand men depending on whether they were civilian or military.

With this influx of activity, game moved away from the highway. It was rare indeed if a moose crossed the highway and if it did, it did not hang around long. If it wasn't seared off by the noise, it was more than likely shot and many of the times left to rot. There was an attitude of "don't give a damn" probably because of the war and the fact that the soldiers were constantly rotated and had very little recreation facilities. In most military camps it was off limits to civilians. Before the closing of the American operation and because of the brazen way the animals were shot a law was passed around 1944 to make it illegal to hunt or to trap within one mile on either side of the Alaska highway.

Fishing holes and many spawning grounds in river were dynamited and ruined and never to b eused again by the people who didn't give a

damn. In many cases, the fish weren't even picked up. It was a horrible waste.

In the trading post we wouldn't sell any ammunition to non-resident people or people that we knew would waste game. A few of the local people lost animals out of their traps or a cabin might be broken into a rifle take or a window shot up. Who could the native people turn to? They had a small voice in any of these matters. The only justice they saw was if they were involved in violations of a law and no one protected their rights.

Local home brew pots were raided and sometimes minor game violations. I guess that is a typing error that should probably have gone up into that other paragraph.

A case I well -- A case I remember quite well was when an elderly man killed a beaver and singed the animal and was roasting it beside the fire in early June of 1944. The inspector of the R.C.M.P. -- The inspector of the Yukon R.C.M.P. was making a tour and one of the constables found the beaver which was taken out of season and arrested the old man. Court was held in our trading post. The inspector asked:

> "Allen do you know beaver season closed the first of June?"

and the old man replied:

> "My head tells me 'no' but my stomach tell me 'yes'.

and the case was thrown out.

With all this activity game moved further and further from the road. Rumors were that the fighter planes mercilessly shot caribou and moose that happened to be in open areas. Excuse me. To the people of our village this was unforgiveable. On several occasions dog teams would leave to hunt for meat for the village only to return a week or two later empty handed. We were to learn later that the military and U.S. Army and many civilians were allowed hunting privileges. Someone in Dawson which was the capital goofed and we along the highway had to suffer the consequences.

On top of all this, the Federal Government wished to establish a national park in the Kluane area. Many of the people from our community lived by hunting and trapping in this area and had done so for centuries. Other villages were to be affected, those located on the fringes of the park. The Indian people also had placer operations but not being allowed to hunt soon gave these up. Petty game violations were made up. Our people were arrested for hunting and trapping gophers that outsiders consider rodents but are a delicacy amongst our people.

My father, along with Father Morresett wrote letters to our Member of Parliament and to Commissioner Collins on behalf of the Indian people explaining the hardships that the park was creating. Special permission was granted to allow the people to hunt in a ten mile strip but this was done on a year to

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to year basis. In 1947 -- 1947 was the last year our people were legally allowed to hunt in that area. It wasn't until 1968 some 21 years later that a case was tested in the court and I have a notation here Regina vs Smith. But Indians are still being harassed today.

I can't overemphasize that.

In 1943 and '44, the Haines road was completed. The wanton slaughter continued. Fish were taken then left on the banks. There was a heavy bear population in this area because of the salmon run. The bears would come out to eat the fish and more than likely a number were shot, pitures were taken and perhaps claws were removed then the carcass was left to rot. The local people had very little control. R.C.M.P. officers had to travel in pairs and were quite reluctant to move in on a bunch of soldiers; to do so would have been suicide.

In July of '44, my father heard of a moose that was killed by the Donjak River. We immediately went to the sight of the kill. Approximately two dozen American soldiers had backed a vehicle into a gravel pit and were loading on the carcass of a cow moose. My father asked who was in charge and a Lieutenant stepped forward and asked what the problem was. My father told him that he was the local game warden and was taking the moose in for evidence. The soldiers claimed that they had no knowledge of how the moose met its end and the Lieutenant was quite happy to load the animal onto the back of our truck. Needless to say the village enjoyed fresh meat that night.

I should probably say here that the hunting season in the Yukon Territory opens the first of August.

It is a common belief that the population follows transportation and as we were later to see, many villages were completely abandoned slowly at first but within a span of twenty years, other roads were pushed through, the steamboats shut down and villages along the river became vacant and the villages that thrived away from the highway met with the same experience. In some cases, the registered Indians could rely on the Department of Indian Affairs for housing. Not so with the non-registered people.

They became the road allowance Indians, living on the fringes of communities and were in many cases, reluctant to develop into the present society. They truly became the forgotten people.

Many Indian people left their life's gathering in these villages and were slowly -- I think that should read and they were slowly pilfered by a new class of society that invades not only Indian villages but any unattended cabin. Pot became the word of the day and incense replaced the smell of wood smoke. There is still no legislation to protect this invasion. Trappers in isolated areas return during the following winter to find their supplies and equipment have long since been take and that the summer occupants headed for warmer temperatures.

In 1954-55, the 8" pipeline was built to follow the Alaska Highway from Fairbanks to Haines, Alaska. Haines was an ice-free port and the harbor was deep enough to accommodate the largest of tankers. Large storage tanks were built and booster stations every 100 miles or so were set up. The original contract for the building of the 8-inch line was given to Williams Brothers, who completed the line in the fall of '55. During the building, many natives acquired jobs slashing and clearing the line. In October of '55, a 'pig' was run through to clean it, and later sea water was pumped through to test the line for leaks. It so happened that winter settled in early that year, and the sea water froze. A group of pipeline people asked if any of the local boys would want to work for three or four days to help clear the line. So myself and five other people started up the road. On the 20th of October we found a frozen patch of pipe at Mile 1143 near the Alaska Highway. We cut a lot of timber and built a fire. It was over 100 yards in length, and sure enough, the ice moved. We could judge this by striking the pipe with the back of a single bladed axe. We walked the line west until we found another obstruction. We decided then to cut the pipe beyond the frozen section and build a fire and let the ice out. I might add it was 48 below that night. We worked all night long into the next day. We didn't have any equipment outside of a pipe-cutter and a couple of 4 x 4s. These are Army vehicles that had

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had winches, and after much prying and replacing the 4 x 4s on each side of the line, the line was cut. Needless to say, some of us were sprayed by jet fuel and had to sit in the trucks. When the pipe sprang apart, the person was cast into the snow, and because of the contraction there was a 10-foot gap between the cut. We decided to then build a large fire to thaw the line. We had weed burners. The weed burners we were given were ineffective. After building a fire a quarter of a mile, or so, the ice moved and we cleared the line at that point -- or so we thought. There was a pump station at 1126 and they were alerted to the drop in pressure and we figured this indeed would happen. However, after coupling the line together -- and we had no problem doing this as the pipe expanded due to the fire and was guided back together -- after getting back to the station we were told that the pressure dropped but still held at an even 1,000 pounds. We decided then to get some sleep and walked the line the next day. Days turned into weeks and weeks into months, and we learned many things during that period. Every time a cut was made,around 800 barrels of fuel went on the ground. We had made nearly 20 cuts. The sea water did not act as ordinary water and the ice looked like it had been attacked by large woodworms. Usually the salt seemed to concentrate in the centre of the block.

Around the middle of January, 1956, it was decided that we were floundering without proper heavy duty equipment that was needed towork on

the line. Williams Brothers again were given the contract to clear the line, which they did. In the meantime, Fairbanks was running short of fuel and it was decided that we should work on the 4-inch line, the old Canol line which was not in operation. We found that it had broken at the Duke River five miles west of Burwash, and because Fairbanks, Alaska was at a much lower elevation, the line syphoned the water out of the Duke River. There was a summit 25 or 30 miles west of the Duke River, and the pipeline was frozen to that point. Anyway, by the 1st of March we had the line in operation. Williams Brothers were still clearing the 8-inch line, and wouldn't be through until April.

Around the middle of February I was heading east to Mile 1080 when I noticed what appeared to be a large atom bomb that had exploded. There was a mushroom of smoke which was well over a mile high, and I first noticed this about 30 miles away. I was quite concerned about what happened and found that Williams Brothers' crew had cleared off all the snow before making the cut to clear the line. When the line was cut, a lake of jet fuel was formed. The foreman had decided to set this afire, little realizing what 800 barrels of jet fuel would look like under flame. He had a hard time getting the fire started, but after cutting down a dozen or so trees and leaving the branches on, they were able to ignite the lake, and after the trees were set afire they were lucky not to lose any equipment, as the heat was so intense

that it sheared trees off with 8-inch stumps right to the ground. The report went in on the telex that night that they had a man-controlled fire. Needless to say they didn't try that again, but left the fuel to be taken care of by nature.

Much of the area along the pipeline is in permafrost. Between the Donjak River and the White River there is a chain of lakes. When the line was cut the fuel ran into pockets and disappeared. Some went into peat bogs that acted as a large sponge. When the spring breakup came, and the spring runoff was in effect, fuel flowed not only into the lakes but into the streams. The migratory birds heading north at this time became unknown victims. The muskrat and the beaver died. Some of these lakes still don't have rat houses.

Up until four years ago the people couldn't eat the fish at Swede Johnson Creek because they tasted of fuel oil.

We realize the greatest authorities on pipelines came from the south, (this is my own personal opinion), but even an expert, and there were plenty of them, made mistakes when they wandered outside of their environment. Some one sure goofed, perhaps they were all at fault.

My father passed away in 1950. I left Burwash for a couple of years and drove truck just to be away from the community. In 1952 my mother asked me to take over the hunting operation as my share of the estate. At that time I was quite enthused.

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In my father's time we enjoyed a clientele that hunted with leisure, 30 and 40-day trips were nothing uncommon. A person left home and wouldn't be heard of for a month or two. To my dismay, I was to find that even hunting attitudes and hunters were rapidly changing. The jet age was here. People could fly into Whitehorse from any point in the United States or Canada and be here in a matter of hours. Bush planes were used to transport hunters from Whitehorse to the field. First 30-day trips became harder and harder to book. Then 21-day trips; and finally 14-day trips. The slogan seemed to be,

"Catch a jet and bag a trophy."

To stay in business it became necessary to book shorter hunts. In earlier times I normally booked six to eight hunters. At the close, I had to book 15 to 20 hunters. In 1969 I sold my operation. My mother had remarried and moved to Haines. I decided to move to that area. We lived 25 miles from Haines, and only about one mile from a native village named Kluckwan. During that time I became quite friendly with an interesting man who was then the vice-president of the Tlingit-Haida Association. They were then trying to attain a land claims settlement. After listening to many tapes and asking many questions, I decided to return to the Yukon to see if I could become involved in getting something done for the natives in the Yukon. In June of 1971 I returned to the Yukon and stayed at a small community of Champagne, some 65 miles west of Whitehorse. In September of 1971, a small group of us

got together and out of these meetings we formed the Yukon Association of Non-Status Indians. We were later to be funded by the Secretary of State for the development and to organize the non-status. I later became president and carried out this position until February, 1974, when I decided to leave that position so I could work full-time on the Yukon Indian land claims.

Mr. Berger, in closing I would like to express to you the definition of the word, "Chee-Cho-ko". It is an Indian word meaning a bird that arrives in the spring quite poor, and leaves in the fall quite fat. The Indian people of the Yukon would like to see some of that fat left in the north. Thank you.

THE COMMISSIONER: Thank you, Mr. Jacquot.

M R. VEALE: Mr. Commissioner, that is our evidence in chief for this panel.

MR. GOUDGE: I take it in the normal course, sir, Mr. Hollingworth would begin.

MR. HOLLINGWORTH: I notice it is 3:20, now. Did you want to take a break before cross-examination?

THE COMMISSIONER: Yes, let's take a break for coffee.

(PROCEEDINGS ADJOURNED AT 3:20 P.M.)

(PROCEEDINGS RESUMED PURSUANT TO ADJOURNMENT)

MR. VEALE: Mr. Commissioner, I have spoken to other counsel except for Mr. Hollingworth who I trust will agree to the procedure. In order that transportation problems can be accomodated, the panel that has just given its evidence in chief will appear tomorrow morning for cross-examination and at this time, we will introduce the panel of Mr. Smith and Mr. Lueck.

The evidence that's going to be read by Mr. Smith has been filed with the Inquiry Mr. Commissioner and I will now address myself to their qualifications.

ELIJAH SMITH,
AL LUECK, resumed:

DIRECT EXAMINATION BY MR. VEALE:

Q Mr. Smith, you are originally from the Champagne area of the Yukon Territory. Is that correct?

WITNESS SMITH: Correct.

Q I understand that in the Second World War you served in the Canadian Army and at that time you were wounded and subsequently decorated. Is that correct?

A Right.

Q I also understand that in the years since, you have been involved in mining, big game outfitting and construction in the Yukon Territory, Northwest Territories and northern Quebec.

A Right.

Q I also understand that

in the 1960's you became Chief of the Whitehorse Indian band and became involved with the problems faced by your people. Is that correct?

A Right.

Q In 1969 you organized the Yukon Native Brotherhood and became its first president.

A Right.

Q I understand that you then went on to develop the land claim position of the Yukon Indian people and presented that claim to the Prime Minister of Canada in January of 1973.

A Right.

Q At that time, you organized the Council for Yukon Indians to negotiate land claims with the Government of Canada.

A Correct.

Q You are presently the Chairman of the Council for Yukon Indians.

A Right.

Q I also understand that in April of this year, you were presented with the Order of Canada Award for your service to the people of Canada in your efforts to unite the registered and non-registered Indian people in the Yukon Territory.

A Right.

Q Mr. Lueck, I understand that you are a Barrister & Solicitor and originally have practised law in the Province of Saskatchewan?

WITNESS LUECK: That's right.

Q That you came to the Yukon

Territory in 1969.

A That's right.

Q And that you have been Solicitor for the Yukon Native Brotherhood and the Council for Yukon Indians since the organization of these bodies?

A That's correct.

Q I understand that your official position would be legal advisor and consultant to the Council for Yukon Indians in its negotiations with the Government of Canada.

A That's the prime job that I'm doing right now, yes.

Q Mr. Smith, would you read your evidence please?

WITNESS SMITH: Commissioner: My name is Elijah Smith and I reside in Whitehorse, Yukon Territory. I am here today as the Chairman of the Council of Yukon Indians for the purpose of describing to you the up-to-date position of the Council for the Yukon Indian as it relates to your Inquiry. We of the Council for Yukon Indians -- no. Pardon me.

We will discuss the building of the pipeline in the north and the ultimate operation and ownership of that pipeline.

The Council for Yukon Indians is a society made up of all the Indian people whith ancestral rights in the land in the Yukon. Its main job is to negotiate a land claims settlement with the Government of Canada. Building a pipeline across our land is a

matter of grave concern.

The principal reason for me appearing at your Inquiry at this time is to be assured that in summarizing form the position of the Council to reinforce before your hearing ends. Second, it is to present a recommendation to you, Mr. Commissioner, which may resolve many of the conflicts which have become apparent in the past year among the varying interest groups over this proposed pipeline.

We want to place the entire project in a slightly different but more workable frame-work and we want to assure all people in the north that the philosophy behi nd the terms and condition which you will impose will be carried out happily rather than reluctantly. This will make the policing of the project over its construction period and the years of operation much easier and less costly.

I wish to first of all clearly set out the position of the Council of Yukon Indians. It is:

1. The Council shall oppose any pipeline construction in the Yukon Territory no matter where the route until the land claims settlement is made.
2. That a pipeline in an area which will hurt in a direct way the Old Crow people whether socially, economically or environmentally will be opposed. This includes a pipeline along the North Slope as it will have a detrimental effect upon the caribou herd in that area. This objection as to routing will contine even after the claims settlement unless

the people of Old Crow tell us they approve.

3. At such time as the land claims are settled, there will be a need to review the entire relationship between the Indian people and the non-Indian people in the north as well as the relationship between the northern local residents and their southern neighbors. There will be a need to set a policy for foreign corporations in future development in the north.

There are short and long-term damages in building and maintaining a gas pipeline. We're also sure that the route picked for the gas pipeline will also be the route for the future oil line as there is little doubt that an oil line will be required as well.

For any person to blindly isolate this gas line and assume no other lines will go down that same route is to hide from the facts.

We are not about to allow anyone to construct a gas line along the route which may be acceptable as a gas line route but unacceptable as an oil line route.

The Council is aware that there will be many problems in developing a gas line through the north, no matter which route is chosen. These problems will be social, economic and environmental in nature. After construction, more problems will occur during the period of operation of the line. It is not suggested that all problems can be identified at this time but we would like to discuss some of the more

obvious ones.

(i) Traditionally, construction of pipelines or any other kind of major construction in an isolated area has created daily problems which could not be expected. To set out guidelines and terms and conditions under which the contractors must operate to overcome unknown future problems is impossible.

(ii) There will be difficulties of a continuing nature trying to fairly involve northern residents in the construction of the pipeline. Northerners would generally feel that they have not been given a fair chance to participate in the construction.

(QUALIFICATIONS AND EVIDENCE OF ELIJAH SMITH MARKED AS EXHIBIT #619)

(iii) During the operation phase of the pipeline, northerners again will feel that they have not been given an opportunity to participate as much as they would like.

(iv) Northerners in particular, and Canadians in general, will believe they have allowed a foreign multi-national corporation to develop an industry in their northland with no participation or sharing of profits by Canadians unless the corporation doing the job and owning the pipeline is clearly Canadian.

(v) There is a problem which we understand that the Government of both Canada and the United States of America are having in relation to attempt to control multinational corporations in such a manner as to make them more responsive to the policies of these governments.

The main concern of governments in reference to multinational corporations is that they integrate an industry to the extent that it is controlled in every one of its phases by the same group of people. In the case of oil and gas, we understand the majority of the corporations exploring for oil and gas, those corporations owning the known oil and gas wells, and the corporations with interests in Canadian Arctic Gas Systems Limited, one of the applicants herein, are interrelated. We further understand that the corporation or corporations which will be taking the gas and oil from the other end of the gas line built will also be interrelated with the others, as will the ultimate distributor and retailer of the gas. This total

integration is in our view, and I am sure in the views of most Canadians, detrimental to our best interests. It would be more beneficial to have a corporation transporting the gas which is independent of the producers or ultimate retailers.

(vi) The route of the pipeline is extremely important as the impact of the pipeline can be partially controlled by the route and partially controlled by the location of staging areas.

RECOMMENDATIONS:

Our aim is to overcome the obvious problems set out above and to try to assist you, Mr. Commissioner, in creating a set of directions and terms and conditions which will have built-in safeguards that will solve the future problems without undue hardship, discussion and enforcement.

The Indian people in the north are the ones who will be most directly affected by the gas pipeline in a detrimental manner as it is over their land which the pipeline must be built; it is the Indian people who are still receiving their livelihood from the land, and therefore depend upon it; and it is the Indian people who are the least wealthy in the north.

We recommend that after you recognize our basic rights to the land claims settlement as we have stated earlier that as part of your decision and recommendations to the Governm ent of Canada you, Mr. Commissioner, suggest that a permit applied for to build a gas pipeline be granted not to the successful applicant directly, but to that successful applicant on

the condition that it incorporate a new public company in which the majority of the voting shares shall be held by the native people over whose lands the pipeline will be built; that a minority percentage of the shares shall be held by the successful applicant; that a minority of shares shall be available to the Canadian citizens for investment purposes and that a very small percentage of shares shall be held by the Government of Canada.

The reason for suggesting such a corporation is to overcome the obvious difficulties which we foresee in the future in building a gas pipeline in the north. If the Indian people are in control of the actual construction of the pipeline, they will be prepared to require contractors on a daily basis to live up to the standards which the outside construction corporation may not feel is necessary as its commitment is not as great as ours to protect the land. We have many times seen construction companies, large and small, work in the north. They live up to those rules that are enforced and cut corners when the authorities are not watching because they are leaving after the job is done and don't have to live with the results.

The Indian people would choose a route, staging areas, borrow pits, campsites, and set out terms and conditions for the contractors, sub-contractors and individual workers that would protect the environment and the social well-being of the residents while construction was going on.

The Indian people would be able to be realistically involved northern residents in the construction, maintenance, and operation of the gas pipeline in such a manner that outsiders could not do so. The outsiders would not be able to assess clearly the capabilities of Indian people and other northerners in the construction, or maintenance of the line and many would make errors both ways, that is being too lenient and too harsh.

The knowledge of the Indian people of those capabilities and of the people will allow them to involve northerners much easier.

The corporation would be Canadian owned and controlled and would effectively remove multinational corporations from having a totally integrated industry in Northern Canada. This will be beneficial to all Canadians and accomplishing this should be a matter of extreme concern to them at this time.

The funding of this corporation and the payment for the majority shares are questions which we are sure everyone is asking themselves at this point.

As the Indian people own the right-of-way for any gas line, it is obvious that their own contribution will be very significant in the event they contribute a route to the company.

The successful applicant who receives a minority interest in the corporation may suggest that its contribution of engineering expertise

and millions of dollars spent to date should be matched by the Indian people in direct proportion of the shares held; or that the money spent should be repaid to the applicant by the new corporation. This is not so. The successful applicant must understand that in such a joint venture it will receive considerable support and co-operation from the Indian people which would not be forthcoming under any other circumstances. The Indian people, because of their unique position and numbers in the north, will have the capability of saving the successful applicant much time and money in developing of the gas pipeline. This contribution should be considered as payment by the Indian people for the shares which it will hold.

The successful applicant should be prepared to provide the expertise and technical knowledge necessary to build the line for the minority interest only.

Although the Council for Yukon Indians is not in the development field, it appears quite apparent that when a successful applicant receives a permit and there is an extreme demand for the product that is being transported, as in this case, the financial institutions in Canada and the rest of the world will not hesitate to lend the money to the corporation to build this pipeline. Therefore, we do not see it as a project which can only be built by some extremely wealthy multinational corporation, but rather a project that can be built and owned by Canadian people by simply purchasing the expertise to build the line.

Canada is a rich nation. A few weeks ago it was announced that Canadians had $33 billion in their savings accounts in the various chartered banks in Canada. We do not need outside interests to exploit our north.

We have not discussed this proposition with the other Indians and Inuit groups who may be affected by a pipeline. We say to our aboriginal brothers, "Consider the proposition and see if it is not the answer to many of our problems on this pipeline question."

If the approach is the correct one, the details of exactly what percentage of interest each interested group would have and exactly how the corporation could be operated and controlled can be worked out.

Today we ask all applicants and interveners to consider the merits of our recommendation. As the next few months go by, Mr. Commissioner, you will have the opportunity to hear the views of Southern Canadians as you hold meetings across Canada. It is our hope they will express to you their views on this issue.

The northern interest groups are largely represented here today and no doubt will let you know what they think.

We, the negotiators for the Council for Yukon Indians, have not presented this corporate idea lightly as we are aware many people will take it as a compromise which is not true. Others

will criticize us and say we are just looking for a way to make a lot of money, which is also not true.

We are Indian people who have lived in poverty ever since the white man imposed his government structure on us. At the same time we have seen him change our land as he wishes. Today we are saying, the need for gas and oil in the world is great because you have built homes and factories and drive vehicles that need gas and oil to keep going.

We recognize that, but we also know we have to make a stand somewhere to stop you from destroying us and our land while you drain all our resources. This stand is a compromise which we hope will satisfy everybody a little bit.

During the construction phase, the Indian people will be required to make a daily decision that will change our environment, our villages, our economy. This is as it should be.

When the line is completed, the gas producers will get their products transported to market; southern Canadians and our neighbors in the United States will receive the much needed gas and the government will have accomplished many of its aims such as tapping the northern riches, involving the northerners in the operation, providing a means of involving Indian people in the economic development over a long period of time in such a way that may even benefit them minimizing the damage, eliminating the criticism that foreigners will benefit most from this development.

Finally, during the operation years of the gas line, the INdian people as well as other Canadian will receive dividends and the route will be the site for more oil and gas lines and the future roads. All of these new developments will be of direct benefit to northerners if we are given the initial control of this line.

We see this huge development as the first of the several transportation lines. How this one is constructed, maintained, controlled and owned

will determine to a great extent of what happens in the future.

We want northerners to benefit, including northern white people. We will. They will if we are in control because they are our friends and neighbors and we will be involved -- and will be involved in the construction and maintenance. As well, they will benefit because the majority of the dividends from the corporation will stay in the north and be spent here.

Mr. Commissioner, consider carefully what we have said. It is the solution to most of your problems in this Inquiry and has far reaching benefits for all Canadians, even us in the north. No other proposal placed before you to date can do the same.

In closing, we wish to emphasize that it is not our desire to build a pipeline. We would prefer no pipeline at all. However, in the event the Government of Canada insists and directs one be built, we have made these recommendations.

Thank you.

THE COMMISSIONER: Thank you sir.

MR. VEALE: That's the evidence of this panel, Mr. Commissioner.

THE COMMISSIONER: Any cross-examination of Chief Smith and Mr. Lueck?

MR. GOUDGE: I take it Mr. Bell would go first.

CROSS-EXAMINATION BY MR. BELL:

Q Mr. Smith, good afternoon. My name is Glen Bell. I'm representing the Indian Brotherhood of the Northwest Territories and the Metis Association for the Northwest Territories at this Inquiry, and I'd just like to clarify a couple of points in your evidence.

I understand that you would oppose a route -- a pipeline route that went across the North Slope of the Yukon. Is that what I understand from your evidence?

MR. STEEVES: Where is that?

MR. BELL: You say sir on page two, "that a pipeline in an area which will hurt in a direct way the Old Crow people whether socially, economically or environmentally will be opposed. This includes a pipeline along the NOrth Slope as it will have a detrimental effect upon the caribou herds in that area. This objection as to routing will continue even after a land claims settlement unless the people of Old Crow tell us they approve."

I take it from that that you oppose a route across the northern Yukon.

WITNESS SMITH: Right. Do you want to answer that Al?

Q And you, over on page six of your evidence Mr. Smith you say that you think that under your proposal, Indian people should be allowed to choose a route if a pipeline goes ahead. In the last paragraph you say Indian people would choose the route, staging

areas, etc. and I was wondering sir if you had to choose a route, which one would you choose?

A I don't think that I could answer that question until I went further to find out from the people that are concerned in that field. You know, right now we're talking about Old Crow and I have to go back there, you know, to find out.

Q At the present time, I understand that the people in Old Crow are opposed to a route in the northern Yukon though.

A Right.

THE COMMISSIONER: They made that plain at the hearing we held.

MR. BELL:

Q I told you that I represented the Indian Brotherhood and the Metis Association of the NOrthewest Territories and as far as you know, your proposal concerning the ownership and construction of a pipeline hasn't been officially approved by those organizations, has it?

A No, not yet. We said that in the brief here.

Q You're just inviting us to consider it.

A Yes.

Q Right. You say at the end of your evidence that you would prefer no pipeline at all and you go on to say:

"However in the event the Government of Canada insists and directs one be built, we have made these recommendations."

What I would like to know is if your recommendations concerning ownership and construction were not accepted by the government, what would your attitude be to a pipeline in that case?

A Well, we stated right off the bat that we didn't want no pipeline built at all. We opposed you all the pipeline that as far as the pipeline is concerned.

Q If the government didn't accept your recommendations concerning the ownership and construction of a pipeline, then you would be opposed to a pipeline?

A Right.

MR. BELL: Right. Fine, thank you very much Mr. Smith.

THE COMMISSIONER: Well, Chief Smith and Mr. Lueck, as I understand what you said in the brief, you said that you are opposed to a pipeline being built, that if the government wants to go ahead and build one, you say three things: first of all, no pipeline across the northern Yukon because the people of Old Crow are opposed to that. Secondly, you say land claims should be settled before any pipeline is built and thirdly, you say that the ownership of the pipeline, the construction of the pipeline and the dividends from the pipeline, the profits, should be arranged in the way that you've outlined in the paper . That's really what you've come here to tell me.

WITNESS LUECK: Yes.

MR. GOUDGE: Mr. Hollingworth.

CROSS-EXAMINATION BY MR. HOLLINGWORTH:

Q Mr. Smith, again I have a few questions that I hope will clarify some of your statements for me and perhaps if could turn to page two of your testimony and in the section number three, you say:

> "And there will be a need to set a policy for foreign corportions and future development in the north."

What's your definition of a foreign corporation, one from another country or one from the south, or what?

THE COMMISSIONER: That's the key question.

A If I may answer that, I think Chief Smith would --

THE COMMISSIONER: Go ahead.

A -- Has asked me if I would. A foreign corporation is one that has not been defined in the paper and I'm sure there's as much controversy in Canada right now in the government circles as to what a foreign corporation is, as there may be in this room.

Certainly a foreign corporation is one that is at least 50 percent owned by non-resident people and that would be the simplified definition of it.

MR. HOLLINGWORTH: Excuse me. Non-resident of Canada?

A Yes. The -- without going into any detail, I think that there should be a more stringent restriction on the definition of foreign

corportion, in that there should be certainly a minority of shares, a small minority of shares owned by foreign people if it's going to be really a Canadian corporation, say nothing more than say 30 percent because as many of us know, a corporation can be controlled with a minority block of shares.

Q Yes. You say there will be a need to set a policy. Has a policy been thought of at all or even fleshed out?

A No.

Q I take it, going over to page four in the paragraph numbered four that when you say:

"Unless the corporation doing the job and owning the pipeline is clearly Canadian,.."

that that would fall within the same definitions that you've just enunciated, Mr. Lueck?

A Yes.

Q At least 70 percent Canadian resident owned?

A I wouldn't want to be tied down to saying that I'm suggesting 70 percent or that the C.Y.I. is suggesting 70 percent. In the discussions that were held, we felt that actually only about 20 percent of the corporation should be owned by the applicant that was successful for his share, or its share in the development and that if more than 20 percent were held by that corporation which were providing the expertise and so on, it would probably be too much.

Q O.K. NOw, on page six at

the bottom --

THE COMMISSIONER: So far it looks like they come within the definition.

MR. HOLLINGWORTH: At the bottom of page six, it stated:

> "The Indian people would choose a route, staging areas, borrow pits, camp sites and set out terms and conditions for a number of people."

You'll agree with me that's a pretty large job.

A Right.

Q And I think it's fair to say that you probably couldn't find many, or indeed any Indian people who are in a position to do that at the moment, because they simply don't have the technical expertise that's necessary.

A Right.

Q On their own.

A Right.

Q So would you see this then as the Indian people doing the choosing on the basis of advice from people who did have the necessary expertise?

A Certainly the purchasing of expertise is a common thing done today. You go to a corporation or corporations that have expertise in a particular field, and you buy that expertise, and as long as you're in control of it and you tell them what you want and how you want it done, then they're working for the Indian people, and they will do the job in that manner. When the expertise is purchased by some outside corporation or group of people, and are advised to do a particular job with no concern for the interests of the Indian people, it's at that point that the conflicts occur; and so by having the Indian people in control they will be viewing what is occurring and will be in fact assisting and reviewing decisions and so on.

Q So that when you say the Indian people would choose, it would be through this new public company that is outlined above.

A That's right. The assumption is that the Commissioner is going to be making many recommendations and that his Inquiry will have found probably the least objectionable route and/or routes as the case may be, and that all of these kind -- this kind of information will of course be available and the Commissioner's report will be very comprehensive and will include, hopefully, the kind of corporate idea that has been put forward.

I hope that people reading this document will not take the view that the Indian people are going to not look at what the Commissioner has done and is doing, because there's been a tremendous amount of information put before him.

Q You're saying that their considerations would have much greater weight because of their ability to control the corporation.

A Exactly.

Q In construction and operation of a line.

A Yes.

Q Some time ago, the president of Foothills, Robert Blair, put forth a suggestion that perhaps a majority of shares in Foothills, were it the successful applicant, could be owned by the native groups. But he put a proviso on it that the pipeline would have to be operated thereafter in an acceptable manner, and I think the concern that he was expressing that again there would be this lack of expertise in what is after all a

highly specialized business, and he would want some assurance that the pipeline would be operated in an acceptable manner in accordance with industry standards, and I take it that you wouldn't disagree with those sentiments. You would accept that as a reasonable proviso.

A The proviso being that the line would have to be operated in an acceptable manner?

Q Yes.

A I see nothing wrong with that.

Q When you get into the financing and the consideration for Indian participation you say on page 8 in the first complete paragraph:

> "The successful applicant should be prepared to provide the expertise and technical knowledge necessary to build the line for a minority interest only."

Well, I understand that, and I understand further that the Indian people feel that they would be entitled to a majority interest by virtue of ceding their land, ceding a right-of-way and just participating anyway and providing on expertise and site selection and stuff like that; but there is also the question of raising equity and I can tell you that most pipeline companies are financed on the basis of 75% debt and 25% equity, so that the owners of this company you're talking about would have to contribute 25% of the money required to build the pipeline. Now have you

given any thought as to where that's going to come from?

A The Council for Yukon Indians, in presenting this proposition, decided that if the philosophy was right, that the funding could be worked out. Now that's a fairly optimistic view but you have to remember that all of these organizations are moving towards land claim settlements. There is also the fact that the Federal Governm ent can and possibly should get involved in this in a financial way. The government is moving in that direction more and more all the time. The details of funding in the view of the council is that they should be left in the back-ground until such time as the philosophy is resolved. If this idea doesn't meet with the favor of anyone in particular, then there's no point in trying to work out details.

Q All right, I'm just interested to know whether you've given any thought to it. Lastly, how would you foresee the manner of ownership of the majority interest? Would it be a collective ownership on behalf of all the Indian people and INuit people? What would the legal vehicle be for ownership of these shares?

A The Council for Yukon Indians felt confident that the Indian and Inuit people could get together and privately make that decision among themselves as to how they were going to share in that majority interest, depending on the routing, depending on the amount of land that each party was

involved in, and so on. It would have to be an arrangement among themselves. But they would be quite prepared to sit down with their brothers and figure that one out.

MR. HOLLINGWORTH: O.K., those are my questions. Thank you.

MR. GOUDGE: Mr. Steeves?

CROSS-EXAMINATION BY MR. STEEVES:

Q My questions are addressed to either of you two gentlemen, but perhaps before I start; Mr. Lueck, do I understand from your participation in this hearing that you are both a spokesman and an advisor to the council?

A Yes. I'm rather a jack of all trades, Mr. Steeves. I practice law, but I also act as a consultant to the Council for Yukon Indians in their negotiations, and in this particular Inquiry I've been asked by the Council for Yukon Indians to come over and answer general questions. As you can well understand, Mr. Smith doesn't feel very comfortable answering questions from other lawyers. He rather feels that his lawyer should answer the questions from the other lawyers.

Q I don't know why you would feel that way, sir. I accept what he said. Mr. Lueck, incidentally, did you prepare this brief?

A Yes.

Q Thank you. Onpage 11, can I direct your attention to the last paragraph?

The last sentence?

The brief says this:

"However, in the event that the Government of Canada insists and directs that one be built, we have made these recommendations."

I would like to know how the land claim or demand of the Yukon Council is connected, if it's connected at all, with control over territory within the Yukon. By that I mean, is one of the demands you're going to insist on in your negotiations that the council control what goes on in the whole or in certain areas of the Yukon?

A I'm afraid I can't answer that question at this point. I'll put it this way, we in our negotiations with the Federal Government there are -- the things that are under discussion at the negotiating table are a secret to the extent that we're not allowed to discuss it in public. If I answered that question I would be telling you what some of the positions were of the Council for Yukon Indians, at the negotiating table.

Q I'm sorry. Your answer to me then, as I understand it, is that you do know the answer but to give it to this Inquiry would be in breach of some undertaking you've given.

A Yes.

Q And I take it that's true as to the whole of the negotiations that are now under way, is it?

A Yes.

Q That you -- are you the principal negotiator?

A No , I'm the legal advisor for the Council of Yukon Indians, and Mr. Jacquot, Mr. Johnnie Johns and Harry Allen and Chairman Elijah Smith are the four negotiators.

Q But the negotiating group has given an undertaking to the other side at the table that there will be no disclosure of any part of the claim of the council.

A The position is that only statements can be given to the public which have been approved by both sides.

Q Can you tell me whether or not you have considered the issue that's emerged very early on in this Inquiry, that is whether or not construction of a pipeline will prejudice the land claims of the council?

A Yes. We've certainly considered that.

Q And have you considered getting agreement from both sides of the bargaining table that you'd be at liberty to disclose to this Inquiry at least some of the details of your demands?

A No, we haven't asked for that. The proposition put before the Inquiry today is one that the council felt could be dove-tailed into the general negotiations, but, rather than the negotiations dove-tailed into this one.

Q Well, is it the position of the Council that they see no prejudice so far as the negotiations are concerned or the claims of the Council are concerned if a permit is issued before negotiations are concluded?

A No, it's not the position at all. In fact --

Q What is the position?

A -- it's just the opposite; in fact, it's stated right in here that there must be a settlement.

Q M-hm.

A Before a pipeline is to be built and I think that's very clear. It has been the public stand of the Council for Yukon Indians right from the beginning.

Q All right. And is that so because the Council wants control over the routing, construction and operation of the pipeline if any is ever built?

A No. I would suggest that the proposition put before the Commissioner today is one which it is hoped by the Council would relieve some of the difficulties that this Inquiry is facing. It is as it is stated somewhat of a compromise. It's a proposition put forward to find out whether or not the parties and the government of Canada, in fact, are really sincere about this whole idea of having northerners participate in their own destiny.

Q Well, I'm sorry. I want to

go back to the last sentence of the last paragraph on page 11.

> "In the event the government of Canada insists in direct that (1) being a pipeline be built, we have made these recommendations."

I infer from that in your negotiations with the government you are not demanding land use control on any likely right of a pipeline. Am I right or wrong in that?

A You are wrong.

Q Okay, then that last sentence doesn't make any sense, I take it.

A I respectfully suggest it makes a lot of sense. The government of Canada in its wisdom can do anything it wants to do. You know that very well. And if they say there is going to be a pipeline built, anything less than a revolution and a separation of countries is going to be required to stop that pipeline from being built. The Parliament of Canada can, in fact, build a pipeline if they insist on doing it. That's what we're saying there. If there is a straight out and out insistence then these recommendations are being made. It could have been put much stronger. It could have been put in different words. You have heard all of the different words that have been used to try to convince the government of Canada that they should be listening to northerners but if the wording sounds rather soft, possibly we should harden it up.

Q Well then, would you do so now? Harden it up. Put it in honest direct terms what the position is.

A The position at this point is exactly the way it states, is that if the government insists on building a pipeline, we're making recommendations which are contained in these eleven pages. What the Council for Yukon Indians will do over and above that, or what the Northwest Territories Indian people will do or the Inuit people will do is another question. We leave that to your imagination because I don't know what they are going to do.

Q Well, I have a very vivid imagination. I'm not interested in relying on that. I want to know what you have to say about it. Does land use control form part of your demands or not? Can you tell me that please?

A I think I already answered that, that at the negotiating table we have certain demands put on that, put to the government of Canada and we're not at liberty to discuss them here.

Q When will you be at liberty to discuss them?

A When an agreement-in-principle has been signed and made public.

Q All right.

THE COMMISSIONER: Wasn't there supposed to be an agreement-in-principle -- I don't mean supposed to be but we had heard there was to be an agreement-in-principle by March this year. What is

the situation?

A Yes, last September the Minister of Indian Affairs and the Council for Yukon Indians had agreed on a target date of March 31. They were working toward that through having Mr. Digby Hunt, the Comprehensive Claims Negotiator, come to Whitehorse and actually reside there. On January 26, Mr. Hunt went back to Ottawa to get directions from the Cabinet and he has not returned to Whitehorse since because he has not been able to get to see the Cabinet. We're still waiting. The last word we had was that he may be in Whitehorse on May 17 and the Council for Yukon Indians feels now that possibly July 1 may be the first possible date for any kind of an agreement.

THE COMMISSIONER: But you are not holding out any -- you are not holding out a prospect or the prospect of an immediate, of an agreement-in-principle being reached even by then, I take it.

A It's very difficult at this point because we're simply waiting for the word from above.

MR. STEEVES: I don't understand your answer. You're a lawyer and presumably a trained negotiator and you're telling me you don't have any idea when negotiations are likely to be concluded. Is that your answer really?

A Absolutely.

Q Well, first of all, we know that you are not prepared to tell us whether or not the arrangement set out in this brief that you

prepared is a condition of settlement or not. Am I right in that?

A Right.

Q Okay. Are you prepared to tell me whether or not this proposal has the general support of the ordinary membership of the Council of the Yukon Indians?

A I would have to say I don't know whether it has or not.

Q You don't know?

A It hasn't been discussed at the general Council meeting of the Council for Yukon Indians.

Q I'm sorry. It hasn't been discussed at what?

A At a general Council meeting which is the body which meets approximately every six months to review the developments in negotiations with the negotiators.

Q Well, when did you draft this statement?

A It's been in the works for a number of months and was drafted approximately a month ago.

Q I see and what part if any did the Council play in the drafting of the paper?

A The Council for Yukon Indians?

Q Yes.

A Or the negotiators?

Q The Council, first of all.

A The general council of the Council for Yukon Indians did not play a part in it at all.

Q Then it knows nothing about the statement than other than what they will hear as a result of today's Inquiry? Is that right?

A That's right.

Q Now, what about the negotiating committee? Do they know anything about it?

A Yes, they do. They certainly do.

Q Well, tell me how they know about it.

A They have, in fact, approved the document.

Q Did they participate in the drafting of it?

A Yes.

Q How did they participate?

A They participated by re-drafting the first draft and by re-drafting the second draft and approving the third draft.

Q I see. Could you tell me, sir, whether or not the statement which is before the Inquiry in your view would have a general support of the people of the Yukon -- your people in the Yukon?

WITNESS SMITH: That's why we were put on the negotiating team.

Q Okay. Well, we can take it as -- sorry, I interrupted you. Did I interrupt you? I'm sorry.

A Pardon?

Q I beg your pardon if I interrupted you.

A Right. I mean, you know, we were put in this position so that they also take whatever we recommend to them.

Q Okay. Sir, I understand, you know, the honors that have been paid to you on account of your ability to bring together the people in the Yukon in a unified organization. Now, we've heard a lot at this Inquiry about the inability of the people in the Northwest Territories to deal with the pipeline.

May I say, sir, you know, I'm not -- I'm being absolutely serious in this, that I infer from this statement that the people of your organization in the Yukon feel themselves quite capable of dealing with the pipeline if one comes along. Am I correct in that interpretation?

A Right. Right.

Q Okay. And I interpret from this statement that the members of your organization in the Yukon are interested in getting benefits from the construction of a pipeline. In fact, I think that's stated in the brief, is it not?

A It's stated right in the brief, yes.

Q And do the people of your

organization all generally pursue that objective --they want to get some benefits from this pipeline?

A Well, sure they -- I mean, you look at this way. It's stated right in there that they have been kicked around long enough, that they want benefits from anything that goes across their country.

Q Okay. On page 3,"there will be difficulties of a continuing nature" -- this is at the bottom -- "trying to fairly involve northern residents in the construction of the pipeline." I take it that the members of your organization in the Yukon want to have jobs during the construction phase. Is that right?

A Right.

Q And they want to make sure that they get their fair share of those jobs. Is that correct?

A Right.

Q And they feel quite confident that they can handle the changes that will happen as a result of their getting the fair share of the employment on the pipeline. Is that right?

A The way this brief is written there, they -- not only, they want a job on that, they want a percentage of the dividends that goes with the pipeline.

Q But that is your people speaking.

A Yes.

Q When they say that.

A Right.

Q It's not just Mr. Lueck or you --

A No, no.

Q It's just the Negotiating Committee. That's the people, the ordinary people in the Council for Yukon Indians.

A Right.

Q And does the same apply to the top of page 4,

"During the operation phase of the pipeline northerners again will feel that they have not been given an opportunity to participate as much as they would like."

Now is that the people, the ordinary people of your organization speaking in that paragraph?

A Well, you know, I can only answer you that these people that I'm representing have never been given a chance.

Q O.K., and they want the chance.

A They want the chance, right.

Q They want to get what's coming to them --

A That's right.

Q -- if this pipeline is built.

A Right.

Q During the operations phase, is that correct?

A During operations.

Q And are your people quite -- sorry.

A And maintaining the pipeline.

Q Right. Are your people quite confident that they can handle the problems that will arise as a result of steady jobs and the income that will come to them if they get their fair share during the maintenance and operation of the pipeline? Are they quite sure of that?

A Well, I'm pretty sure that you know, I can say that they will be happy to-- more than happy to get a fair piece of that action.

Q Do the people in your organization, do they want jobs?

A Right, they want jobs.

Q Do they want steady jobs?

A Well, the younger people do now, yes.

Q Do the older people want steady jobs with a chance to get away in the bush?

A Yes, that's right.

Q If the older people in your organization got that, some understanding of the

way they want to live, that is that they want to work but they also want to be able to get away and go to the bush, would the older people, do you think, be able to handle the pipeline and would they be reasonably happy with it?

A The construction of a pipeline ain't going to take that long in various communities, it will just go through a community same as the pipeline -- I mean the Alaska Highway done.

Q Yes.

A You know.

Q I understand.

A And now I don't know just what you mean by having a steady job on a pipeline. You know, my people today are not the experts in the pipeline, they will have to learn.

Q Of course. Have you had a chance to look over any of the material filed by Foothills Pipe Lines and Arctic Gas Pipeline about what they intend to do to work with the people in the north?

A Yes, that's you know, I've seen tons and tons of material that's been put together by the white people that they're going to put a contract and sign that they're going to put Indian people to work, and maybe two or three Indians, that's all, afterwards.

Q O.K., but you're coming here today, you and Mr. Lueck, with serious intent, are you not?

A Well, I'm sitting here. You know, if I didn't think it was that serious for my people I wouldn't be sitting here.

Q And you believe that Mr. Commissioner can help your Indian people if a pipeline goes ahead by making the terms and conditions stick this time, I take it.

A Well, I'm sure it would -- just as plain as I'm sitting here, we're not different than the people who are asking for applications to put that pipeline in.

Q O.K.

A The people that are asking for that application is looking at dollars, eh, so we're looking at dollars too.

Q O.K., right.

A Not just only the pipeline.

Q Well, you said to me you didn't understand -- you wanted to make sure what I meant by "steady jobs", and I'm not confining steady jobs to construction, I'm not confining steady jobs to people who are highly trained in pipeline construction or pipeline operation and maintenance, I am talking about steady jobs for people generally, accompanied by training programs which will permit them to learn the jobs required to both build and operate and maintain a pipeline. That's what I mean by "steady jobs". Doyou understand me now?

A Yes.

Q O.K., are your people interested in those kind of steady jobs?

A Oh yes, I can honestly say that we have people who want a steady job. But they don't want to be down on a pick and shovel job.

Q Right. Pardon me?

A They can get that now.

Q Sure they can, but that's not what they're interested in.

A No.

Q I'd like to ask finally about paragraph 3 of your brief, on page 2, and paragraph 3 says:

> "At such time as the land claims are settled, there will be a need to review the entire relationship beween the Indian people and non-Indian people in the north,"

and I believe I understand what you mean by that,

> "as well as the relationship between northern local residents and their southern neighbors."

And I think with respect I understand what's meant by that.

> "And there will be a need to set a policy for foreign corporations in future development in the north,"

Now I'm particularly interested in that last sentence. Is that a condition of a settlement of the land claims of the Yukon Council of Indians, that a policy for foreign corporations first be settled?

I'm sorry, it's immaterial to me, I understand Mr. Lueck can speak to this as well as you, sir.

WITNESS LUECK: The answer to that is that again we're getting into the negotiation and we're not prepared to discuss negotiations at this Inquiry.

Q Am I to infer from that, Mr. Lueck, that that is a matter of negotiation or that you're just not prepared to talk about it? I'm sorry, I'm quite serious in that question.

A If I were to continue to answer questions about what we were and weren't discussing in negotiations, if we stayed here long enough you'd know exactly what we were talking about at the table, wouldn't you? I would rather not answer that question.

MR. STEEVES: Very good, thank you.

CROSS-EXAMINATION BY MR. GOUDGE:

Q I just have one question for you two gentlemen. You've defined some problems that you see inherent in the building of a pipeline and you've given us an interesting proposal for dealing with that. I take it that is a proposal which you would put forward for any pipeline built anywhere in the north? Is that so?

A Yes.

MR. GOUDGE: Thank you, those

are all the questions I have.

THE COMMISSIONER: Chief Smith and Mr. Lueck, when we were in Whitehorse last August, I think it was, to hold hearings there, you will remember there was discussion about the Fairbanks route. You, Chief Smith, I think, and a panel on which you were a member, presented your main stand at that time which was no major development until land claims are settled, and this is a further policy statement; but -- or in addition to that, but you may remember that we discussed the Fairbanks route and the Arctic Gas route and so forth. Now, if you shut Arctic Gas out of the Northern Yukon, if you say you cannot bring gas from -- or oil -- from Prudhoe Bay across the Northern Yukon, either across the coast or across the interior route past Old Crow, if you do that then the Americans cannot take their gas out over land unless they use the Fairbanks route. Don't feel obliged to comment on this if you don't feel in a position to do so, but it occurs to me on reading your brief that you are saying to the Americans, "You can't take your gas out across the Northern Yukon," which means you can't take it along the Mackenzie Valley, which means you're saying to the Americans, "If you want your gas out across Canada, you've got to use the Fairbanks route, which is the only other route that's feasible to get Prudhoe Bay gas and oil to the mid-continent."

MR. HOLLINGWORTH: By El Paso?

THE COMMISSIONER: Well no, I say over land, leave El Paso out of this for the moment.

But that's the American's business, if they decide on El Paso then it doesn't concern us. Are you with me so far? That seems to be the logical result of your policy, based on what appears to be the feeling of all the people at Old Crow that they don't want a pipeline anywhere near Old Crow. So that if they brought their gas and oil out along the Fairbanks route, it would mean that you would leave it to Foothills or the corporation established along the lines suggested to bring the Canadian gas and oil out along the Mackenzie Valley. That wouldn't affect the Yukon Indians in any direct fashion. It would mean that the impact of the transportation of American gas and oil would be chiefly felt by the Yukon Indians because of course you'd follow the Alcan Highway or the Alaska Highway or whatever it's called along the-- cutting across this sort of south-west corner of the Yukon. How many Indian villages are there that would likely be affected that you're talking about here? Can you tell me?

A That would be along the Alcan highway route. There'd be the Beaver Creek group, Burwash, the Champagne and Aishiak bands which are amalgamated now at 1016 and Champagne on the highway, the Whitehorse band, Teslin band and upper Liard band near Watson Lake.

Q Now if the -- let us suppose that the Government of Canada said to the Americans, "If you want to take your oil and gas out overland across Canada, we use the Fairbanks route because we're not going to let you come across the northern Yukon," and a great many reasons have been advanced by the people at Old Crow and by people like Dr. Irving and others, a range of reasons.

All right. NOw, then suppose the Government of Canada said, "We're not going to use the Foothills route to get our gas from the delta to the south. We're not going to go down the Mackenzie Valley. We're going to come from the delta, along the Dempster down to Dawson and then down to Whitehorse and we'll hook up there with the Fairbanks line from Prudhoe Bay."

Now, if you did that, are there any other Indian villages along that route that would be affected?

A Yes, the Dawson City group, the Pelly band, the Carmack band or if it swung over and missed Carmack, it would hit the Ross River band and possibly the Mayo band.

Q Yes, and I take it that if you did use the Fairbanks route with a supply leg from

the delta, along the Dempster, down to Dawson, down to Whitehorse, you would, in one way or another, be building a pipeline, certainly in the vicinity of practically every Indian village in the Yukon.

A Every Indian village in the southern part, almost. Yes.

Q Except Old Crow?

A Yes, that's why I say "in the southern part" . It would exempt Old Crow.

Q O.K.

MR. BELL: Can I just ask one more question, sir, before we go on?

THE COMMISSIONER: Pardon me?

MR. BELL: I'd like to ask just one more question sir.

CROSS-EXAMINATION BY MR. BELL (CONTINUED):

Q I take it from your evidence Mr. Smith that one of the reasons that you would oppose a route across the northern Yukon is because the people in Old Crow are opposed to it and would you agree that the same consideration should be given to the views of Indian people in the Mackenzie Valley?

THE COMMISSIONER: Well that's a horrible question. Surely Mr. Lueck agrees with that. If he didn't, I don't think I would have much --

WITNESS SMITH: I can't very well answer for anybody in the Northwest Territories.

THE COMMISSIONER:

Q All right, since you've raised this matter Chief Smith and Mr. Lueck, and if your proposal hasn't been considered in sufficient detail to answer this question, certainly don't feel obliged to

comment in any way but let us suppose you've had an energy corridor with gas and oil pipelines running through the Yukon and the Northwest Territories and let us suppose there were certain revenues to be obtained by the people who owned the right-of-way, along the lines of your proposal, whether it was a shareholding in the company with dividends, you know and profits and so forth. Have you considered whether it should depend, that is, the share of profits you get, and this is a long way down the road as they say -- should it depend strictly on the distance that the right-of-way travels over your land.

In other words, if you had the Fairbanks route then only Yukon Indians would be affected. I assume that they would be the only ones that you would say should receive any revenue?

Suppose you had the Arctic gas line, the way they want to build it that comes across the northern Yukon and across the delta, along the Mackenzie Valley. That cuts through territory that the Yukon Indians claim, through territory that the Inuit people of the Northwest Territories claim and through territory that is claimed by the Dene people.

Well, do you say it should depend on, the share of revenue that they receive, should depend on whether -- should be apportioned according to the mileage that it travels across the territory of each one or have you considered whether there should be a pot into which all the money goes and the native people share it on a per capita basis, having only a

limited relationship to the distance that the line might travel across their particular territory?

You've opened up this thing and if you'd want to comment, then feel free. If you don't then --

WITNESS LUECK: We talked about that kind of a proposition and came to no conclusions on it because we felt that it was quite premature to try to figure out some formula. The Council felt that they could resolve that problem with their brothers later on if it came to that point and I don't think that they had the view that it was just a simplistic mileage formula that would be worked out. It would have to be more complicated than that.

But other than that, that was about as far as it went.

Q O.K., well.

MR. HOLLINGWORTH: Excuse me, sir.

THE COMMISSIONER: Mr. Hollingworth, let him go first.

CROSS-EXAMINATION BY MR. HOLLINGWORTH (CONTINUED):

Q You presumed I think in your questions sir that if the Fairbanks route was used that the Council of Yukon Indians would want all that money to accrue to Yukon Indians and I was just wondering if that in fact was the case?

Or would they be prepared to share the revenue with the Dene and Inuit, notwithstanding that the Fairbanks route was used?

A The Fairbanks route, as I understand it wouldn't go through the Northwest Territories at all.

Q That's right. So the problem doesn't arise.

A I don't think the problem arise. One would almost be required then to share with the Inuit people as well and if you want to carry it a little further ---

Q I said that, yes.

A -- and possibly share it with the Quebec Inuit and the New Brunswick Indian people as well.

Q I just wondered what the answer was.

THE COMMISSIONER: Oh yes Mr. Steeves, yes.

CROSS-EXAMINATION BY MR. STEEVES (CONTINUED):

Q Mr. Smith, could I ask you just one more question please? I understand that you say there's got to be no pipeline over the NOrth Slope unless the people in the Old Crow area agree to it. Am I saying it right?

WITNESS SMITH: That's right.

Q If the people in Old Crow got the kind of benefits that you're talking about in your proposal, do you think they would withdraw their opposition and support it?

A That matter you'd have to discuss that with the Old Crow people. You know the Old Crow people today is, pipeline is their worst enemy. Anybody looking for gas is their worst enemy up there.

Q So you don't know and you say "ask the people up there"?

O.K., thanks.

THE COMMISSIONER: Any other questions?

MR. GOUDGE: Unless Mr. Veale has any re-examination, that concludes the day sir.

THE COMMISSIONER: Well thank you very much Chief Smith and Mr. Lueck . We've had a worthwhile discussion and we appreciate the Council of the Yukon Indians further elaboration of its position.

I'll bear this in mind, along with naturally the matters that the statement that you made last August when we were in Whitehorse.

So, thank you again.

Well, we'll adjourn till 9:30 A.M.

MR. GOUDGE: 9:30 tomorrow morning.

(WITNESSES ASIDE)

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